



W.P.(MD).No.21273 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 27.06.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.21273 of 2015

and

M.P.(MD).No.1 of 2015

and

W.M.P.(MD).No.897 of 2016

The Tamil Nadu Industrial
Co-operative Bank Limited,
Represented by its Chief Executive Officer,
Mr.R.Ravichandran,
No.36, South Canal Road, R.A.Puram,
Mandavelipakkam,
Chennai – 600 008.

... Petitioner

*(Petitioner address amended vide Court Order dated 05.01.2023 in
W.M.P.(MD).No.236 of 2023 in W.P.(MD).No.21273 of 2015)*

Vs.

1.The Deputy Commissioner of Labour,
(Appellate Authority under the
Tamil Nadu Shops and Establishment Act),
Madurai.

2.P.Malayaman

... Respondents



W.P.(MD).No.21273 of 2015

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the impugned order dated 23.12.2014, in Case No.TNSE 17/2000 on the file of the first respondent and quash the same as illegal.

For Petitioner : Mr.S.Rajasekar

For R-1 : Mr.M.Lingadurai,
Special Government Pleader.

For R-2 : Mr.S.Mohan Doss

ORDER

This Writ Petition is filed challenging the order dated 23.12.2014 in Case No.TNSE 17/2000.

2. The second respondent was an employee of the writ petitioner Cooperative Bank Limited. The second respondent joined the petitioner Bank service in the year 1983. The second respondent faced charge memo and disciplinary proceedings which ended up in dismissal from service on 02.03.1998. Challenging the same, the 2nd respondent had filed a petition before the Shops and Establishment Authority in TNSC No.17/2000. After considering the claim of the second respondent, the authority has set aside the



W.P.(MD).No.21273 of 2015

punishment order and directed to reinstate and grant backwages. Aggrieved over the same, the petitioner Bank preferred Writ Petition No.18580 of 2000 and this Court vide order dated 30.04.2010 remanded the case to Shops and Establishment Authority for reconsideration. After reconsideration, the authority has confirmed the earlier order vide order dated 23.12.2014. By that time, the second respondent has attained superannuation on 28.02.2013. Challenging the order passed by the authority dated 23.12.2014, the present Writ Petition is filed.

3. The contention of the petitioner Bank is that the second respondent has disbursed the loan to a Company which is not in existence. Such contention of the petitioner Bank is refuted by the learned counsel appearing for the second respondent by stating the said loan was disbursed based on mortgage only and therefore, there is no loss to the Bank. Subsequently, a suit was filed and decree was also obtained in favour of the Bank. If the petitioner Bank executed the decree, then there would not be any loss at all. Therefore, the second respondent submitted that the charge against the petitioner was considered by the first respondent elaborately and has set aside the order and there is no infirmity in the order.



W.P.(MD).No.21273 of 2015

WEB COPY

4. The next contention of the petitioner Bank is that the second respondent was out of service from 1998 until his superannuation that is 2015, but the first respondent authority has calculated the entire service period of non-employment and directed to grant backwages and service benefits which is highly inappropriate and illegal.

5. This Court is of the considered opinion that the said contention has some force. Therefore, this Court is inclined to modify that portion of the order. In order to grant over all justice for both the petitioner as well as the second respondent, this Court is inclined to fix the date of compulsory retirement as 30.04.2010. On that date, the Writ Petition in W.P.(MD).No.18580 of 2000 was disposed of. Therefore, the service period from 1983 until 30.04.2010 shall be calculated and then applicable benefits, terminal benefits and other benefits shall be granted to the second respondent. The monetary benefits shall be calculated by taking into account the pay, GP and Dearness Allowance and thereafter disburse the terminal benefits to the second respondent. The entire exercise shall be completed within a period of twelve (12) weeks from the date of receipt of a copy of this order.



W.P.(MD).No.21273 of 2015

WEB COPY

6. With the above direction, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

27.06.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr

To

The Deputy Commissioner of Labour,
(Appellate Authority under the
Tamil Nadu Shops and Establishment Act),
Madurai.



WEB COPY



W.P.(MD).No.21273 of 2015

S.SRIMATHY, J.

Nsr

W.P.(MD).No.21273 of 2015

27.06.2023