



WEB COPY



W.P.No.1939 of 2012

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 05.11.2024**

**CORAM**

**THE HON'BLE MR. JUSTICE D.BHARATHA CHAKRAVARTHY**

**W.P.No.1939 of 2012**

1. S.Alfred Sham (Died)

2. Tmt. Prema

3. Lilly Shobha

4. Martin Derick

P2 to P4 are substituted as Lrs of deceased P1

as per order dated 23.09.2016.

... Petitioner

**Vs.**

1.Presiding Officer,

Labour Court, Coimbatore.

2.The Management of

Tamil Nadu State Transport Corporation,

(Coimbatore Division -1),

Co-operative Society Limited,

No.K, 1860, Cheran Colony,

Thudiyalur Post,

Coimbatore – 641 034.

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records ending with the order of second respondent Order No.NIL dated 04.05.2006 and as confirmed in the award of 1<sup>st</sup> respondent dated 19.04.2011 and made in I.D. No.400 of 2006 and to quash the same and consequently, direct the second respondent to reinstate the petitioner in service with all benefits accrued thereon with effect from 01.03.2006.



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For Petitioners : Mr.N.Ishtiaq Ahmed

For Respondents : Mr.R.Raghunathan for R2

## **ORDER**

The Writ Petition is filed challenging the award of the Labour Court, Coimbatore in I.D. No.400 of 2006 dated 19.04.2011, in and by which, the claim of the original petitioner in the Writ Petition viz., S.Alfred Sham to set aside the order accepting his resignation and to reinstate him into service with all back wages was rejected.

2. It is seen from the records of the case that originally by his communication dated 01.03.2006, the original writ petitioner viz., S.Alfred Sham submitted his resignation from the 2<sup>nd</sup> respondent Cooperative Society. When he did not receive any reply, he made a reminder on 14.03.2006. Thereafter by a communication dated 16.03.2006, the 2<sup>nd</sup> respondent Society requested him to come to the Society in person and reconcile the accounts and to get no due certificate and thereafter only further action will be taken.



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WEB COPY 3. It seems that pursuant to the said communication, the original writ petitioner also indulged the said exercise and by a communication dated 04.05.2006, it was communicated by the 2<sup>nd</sup> respondent Cooperative Society that his resignation can be accepted subject to the condition that if the amount due from him can be adjusted from the dues payable to him upon his resignation. Pursuant thereto, with effect from the Forenoon of 04.05.2006, his resignation was accepted. It was only thereafter, on 07.06.2006, the original writ petitioner, S.Alfred Sham sent a communication that he was withdrawing his resignation. The same was not accepted and therefore, the present Industrial Dispute came to be raised. Obviously, the Labour Court found that since the letter of withdrawal of resignation was much after the acceptance of the resignation and the original petitioner's claim cannot be countenanced and dismissed the Industrial Dispute. Challenging the same, the present Writ Petition is filed.

4. Pending the present Writ Petition, the original petitioner, S.Alfred Sham also died and his legal heirs were brought on record. Under these circumstances, the learned counsel for the petitioner would submit that even in the original communication accepting the resignation, it was intimated that



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the dues which are found can be received by the said S.Alfred Sham. In view thereof, the learned counsel for the petitioner would submit that atleast now the 2<sup>nd</sup> respondent Society can be directed to check into the accounts and if any amount is found to be due, the same can be adjusted and the balance benefits upon cessation of the service by way of resignation which was due to the said S.Alfred Sham can be directed to be paid to the petitioners herein who are the legal heirs. The cheque can be issued in the name of the second petitioner viz., Mrs.Prema, wife of the late S.Alfred Sham who received it on behalf of all the legal heirs.

5. The learned counsel appearing on behalf of the 2<sup>nd</sup> respondent Cooperative Society would submit that whether at all any amount is due and whether the said S.Alfred Sham has received it or not are all facts to be verified by the 2<sup>nd</sup> respondent Cooperative Society.

6. In view of the submissions made, this Writ Petition is *disposed of* on the following terms:

(i) the award of the Labour Court in I.D. No.400 of 2006 dated 19.04.2011 is upheld;

(ii) Even considering the original writ petitioner, S.Alfred Sham has



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having resigned from service with effect from the Forenoon of 04.05.2006, if any dues and service benefits which remain to be paid to the said S.Alfred Sham, the same shall be paid to the present petitioners 2 to 4, viz., his legal heirs wife-Mrs.Prema, daughter-Lilly Shoba and Son-Martin Derick, after adjusting the dues if any, within a period of two months from the date of receipt of the copy of the order. Needless to mention that the cheque can be issued to the name of the 2<sup>nd</sup> petitioner Mrs.Prema, wife of late S.Alfred Sham itself.

7. With the above directions, the Writ Petition stands disposed of. No costs.

**05.11.2024**

rkp

Index: Yes

Speaking Order: Yes

Neutral Citation: Yes

To

1.Presiding Officer,  
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**D.BHARATHA CHAKRAVARTHY, J.,**

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