



W.P.No.24354 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	15/12/2023
Pronounced on	6/6/2024

C O R A M

The Hon'ble Dr.Justice D.NAGARJUN

Writ Petition No.24354 of 2015

The Management
Tamil Nadu Handloom Weavers' Co-operative Society Ltd
(Co-optex)
rep. By Mr.T.N.Venkatesh
350 Pantheon Road
Egmore
Chennai 600 008. ... Petitioner

Vs

1. The Presiding Officer
II Additional Labour Court
Chennai.
2. The General Secretary
Co-optex Oozhiyargal Sangam
No.1/10, 11th Street
Karunanidhi Nagar, Ayanavaram
Chennai 600 023. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for the issuance of a writ of certiorari to call for the records relating to the first respondent dated 23/1/2015 in I.D.No.228 of 2012, quash the order.



W.P.No.24354 of 2015

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For petitioner

...

Mr.K.Rangesh
for M/s.Jayaraman & Associates

For respondents

...

Mr.Kumaraswamy
for M/s.K.Bharathi for R.2

R.1 – Labour Court.

O R D E R

This writ petition has been filed to quash the order dated 23/1/2015 passed in I.D.No.228 of 2012 by the first respondent.

2. The facts in brief are as follows:-

The petitioner Co-operative Society is registered as under Tamil Nadu Co-operative Societies Act, 1983. The petitioner Society has introduced a scheme to provide salary increase to the employees who have obtained higher educational qualifications, such as M.A., M.Sc., M.Phil., M.B.A., M.C.A., M.Com., B.L., and other Post Graduate Diploma Courses, to encourage other employees to pursue their further education for enabling them to improve their knowledge, skill, social awareness and living standards.



W.P.No.24354 of 2015

3. In the year 2002, due to heavy financial constraints, many of its show rooms were closed. Therefore, the petitioner has put the above Scheme under abeyance with effect from 24/6/2005. In order to curtail its expenditure, the petitioner Society has introduced the Special Voluntary Retirement Scheme to its employees for the reduction of its excess manpower.

4. Subsequently, the petitioner Society has lifted the abeyance of the Scheme and implemented the Scheme from 2/10/2009. The second respondent Trade Union, who did not object the Scheme when it was kept in abeyance, raised objections only when the abeyance of the Scheme was lifted, i.e., after a lapse of four years and raised an Industrial Dispute before the Labour Officer (Conciliation – II), Kuralagam, Chennai, demanding that the incentive increments should be given to the four employees viz., T.Viswanathan, S.Murthy, V.N.Mohan and L.Balaji from 24/8/2001 to 1/9/2009, including for the period during which the Scheme was kept in abeyance. The second respondent has demanded that the increments in respect of the above employees should be given retrospectively i.e., from the date of qualifying the higher education and not from the date of implementation of the Scheme after its abeyance. As no settlement was arrived in the Conciliation proceedings, the labour Officer forwarded his failure report under Section 12 (4) of the Industrial



W.P.No.24354 of 2015

Disputes Act, 1947 and the Government of Tamil Nadu had referred the above dispute for adjudication vide its G.O.(D) No.326 dated 20/7/2012 and the above reference was taken into file of the first respondent and the above Industrial Dispute was numbered as I.D.No.228 of 2012.

5. Vide, order, dated 23/1/2015 the II Additional Labour Court, Chennai, held that the workmen concerned in the Industrial Dispute are entitled to get increments from the respective dates on which they obtained requisite degrees. Labour Court further directed the Management to grant increments to the said workmen from the date on which they obtained degrees and to pay monetary benefits to them. Being aggrieved, the petitioner Management has come forward with the instant writ petition.

6. Heard Mr.K.Rangesh, learned counsel for the petitioner and Mr.Kumaraswamy, learned counsel for the second respondent.

7. The learned counsel appearing for the petitioner submitted that this Court, initially has granted interim stay of the Award in M.P.No.1 of 2015. On filing of vacate stay petition in M.P.No.2 of 2015 both the petitions were taken up together and vide, common order dated 9/2/2017, writ Court made the



W.P.No.24354 of 2015

stay absolute, on condition that the Management, Tamil Nadu Handloom Weavers' Co-operative Society Limited, Chennai, pays a sum of Rs.1,00,000/- in favour of the second respondent, who in turn, would disburse the same to four of its members, who are entitled to the same.

8. Being aggrieved, Management Society has filed W.A.No.1772 of 2018 on the ground that the said four workmen did not not obtain prior approval of the Regional Office/Head Office concerned and therefore, they are not entitled to the increment. Vide, order dated 20/8/2018, a Hon'ble Division Bench of this Court has dismissed the Writ Appeal.

9. Heard both sides and perused the records.

10. Granting of incentive increments for acquiring higher educational qualifications has been introduced with an idea that the employees will undertake further studies during the course of their service and with the help of their of acquired qualifications, the professional expertise of the individual employees will get enhanced which ultimately benefit the Management. However of late, on account of mushrooming of Universities and conducting of examinations by way of distance mode and relaxing strict norms in awarding



W.P.No.24354 of 2015

marks and certificates, people started acquiring higher educational qualifications in abundance. However, the schemes like this have become boom as the rules regarding grant of incentive increments have been liberalised from time to time and the increments are being granted to all the employees who acquired qualifications in any faculty they like irrespective of the fact that as to whether this acquired qualification would help them professionally in discharging their duties. Further, on account of granting of such incentive increments affected the financial exchequer of each of the organisation/institution very badly. The classic example is the petitioner cooperative society.

11. In the petitioner cooperative society, a circular was issued in the year 1992 to provide additional salary increase to the employees who obtained higher educational qualifications. In the year 1998, the said increments were restricted only for doing higher qualifications in certain disciplines. In the year 2005, a circular was issued on 24.06.2005, suspending the said scheme of granting of incentive increments on account of severe financial constraints.

However on 02.10.2009 again the said scheme was introduced. Certain employees of the second respondent union which has not raised objection, when the scheme was kept in abeyance has raised objection after abeyance was lifted



W.P.No.24354 of 2015

and raised Industrial Dispute demanding increments for four employees namely

T. Viswanathan, S.Murthy, V.N.Mohan and L.Balaji. In fact, the incentive increments have been granted to all four of them from the year 2009 onwards. However, the second respondent union has raised dispute that increments which granted to four of them from 24.08.2001 to 01.09.2009 including the period when the scheme was kept in abeyance. Thereby, the demand of the second respondent was to give increments to four of them with retrospective effect. As the conciliations proceedings were failed before the Labour Officer concerned, the dispute was referred before the Labour Court as I.D.No.228 of 2012 and the same was allowed by way of impugned order dated 23.01.2015.

12. I have gone through the impugned award meticulously. The Labour Court while considering the demand of the second respondent union has observed that the workmen were entitled for increments as increments were granted with effect from 02.10.2009. However, in respect of not granting those increments retrospectively from 24.06.2005 is concerned, it is observed that as per records T.Viswanathan has filed an application for increments 07.12.2001. S.Murthy has filed an application on 11.06.2003 and V.N.Mohan and L.Balaji's application were reached respondent Office on 12.05.2004. That means, all the four of them have submitted their application prior to the keeping the scheme



W.P.No.24354 of 2015

under abeyance on 24.06.2005.

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13. However as per procedure which has been followed by the first respondent merely because an application is filed for incentive increments is not the end of the day. The first respondent has evolved a practice of issuing approval to each and every case specifically. Though the applications of four of them were filed prior to 24.06.2005, the first respondent could not give the approval prior to keeping the scheme abeyance on 24.06.2005. Therefore, prior to abeyance, the four of them could not get their increments. The abeyance was in force from 24.06.2005 to 02.10.2009 during which time not only to the petitioners but for anybody, the proceedings were not issued giving the approval for granting of incentive increments. Therefore, second respondent union cannot find fault with the first respondent on the ground that since the applications were given prior to abeyance, the increments shall be granted from the date of grant of decree.

14. The Labour Court has observed that from the date of decree, the increments should have been granted and not from the date of approval. There is no basis for such observation by the Labour Court. Labour Court has not elaborated as to what contest and how it concluded that the increments shall be



W.P.No.24354 of 2015

granted from the date of decree. The Labour Court has further observed that there is no need for issuance of any approvals. For this comment of the Labour Court also there is not basis. In fact, as per the documents filed by the petitioner prior to grant of increments for acquiring higher educational qualifications, the first respondent society will consider all relevant factors including whether the individual has obtained permission for acquiring higher educational qualifications. As per the circular issued by the first respondent society, all the employees who claimed increment on account of higher educational qualification, must have obtained prior permission before acquiring higher qualifications. Therefore, once, the application is filed for acquiring higher educational qualifications, the first respondent society would examine whether certificates filed are genuine, whether any permission was obtained by the individual and after satisfying all the requirements, then approval will be given from which date the increments will be granted. This procedure which has been adopted in respect of all the candidates cannot be questioned by the second respondent union and seek for retrospective grant of increments to the four of its members.

15. In view of the discussion made above, the request of the second respondent is totally devoid of merits and the impugned orders of the Labour



W.P.No.24354 of 2015

Court directing the respondent to grant incentive increments to four of the employees retrospectively cannot be appreciated. Accordingly, I.D.No.228 of 2012 dated 23.01.2015 is set aside and Writ Petition is allowed. No costs.

6.06.2024

Index : Yes / No
Speaking/Non-speaking Order
Neutral Citations: Yes/No

mvs/jai

To

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No.1/10, 11th Street
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W.P.No.24354 of 2015

Dr.D.NAGARJUN, J.

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Pre-delivery order made in



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W.P.No.24354 of 2015

W.P.No.24354 of 2015

6/6/2024