



WEB COPY



WP.No.8568 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.04.2024

CORAM:

THE HON'BLE DR JUSTICE D.NAGARJUN

WP.No.8568 of 2021

and

WMP.Nos.9130 & 9131 of 2021

M/s.Hindustan Photo Film Employees Co-operative Stores,
Rep.by its Official Liquidator,
Indunagar, Ootacamund – 643 005. ...Petitioner

Versus

C.Anthony Prem Kumar
S/o.Carmel Raj. ...Respondent

Prayer: This writ petition is filed under Article 226 of the Constitution of India, with a prayer to issue a writ of Certiorari calling for the records relating to the order dated 20.06.2018 passed in CP.No.166 of 2014 on the file of the Learned Additional Labour Court, Coimbatore and quash the same as being illegal, arbitrary and unconstitutional.

For Petitioner : Mr.R.Bala Ramesh

For Respondent : Mr.N.Ramesh

ORDER



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This writ petition is filed under Article 226 of the Constitution of India, with a prayer to issue a writ of Certiorari calling for the records relating to the order dated 20.06.2018 passed in CP.No.166 of 2014 on the file of the Learned Additional Labour Court, Coimbatore and quash the same as being illegal, arbitrary and unconstitutional.

2. It is submitted by the learned counsel for the petitioner co-operative society represented by the Official Liquidator that the petitioner co-operative store was established for serving the Employees of the Hindustan Photo Film Stores. The respondent has refused to obey the directions and committed the mis-conduct thereby he was summarily dismissed on 07.05.1997 and the same was communicated to the respondent on 12.05.1997. The respondent has raised the industrial dispute in ID.No.96 of 1998 has passed the Award on 18.09.2000 directing the petitioner to reinstate the respondent. Aggrieved by the same, the petitioner filed WP.No.2099 of 2021 and the same was also dismissed on 02.09.2008.

3. After lapse of six (6) years, the respondent filed claim petition under Section 33-C(2) of the Industrial Disputes Act, 1947 to compute the back wages and other benefits due to him for the period from the date of his termination till reinstatement, from 01.04.1997 to 27.03.2014 at



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Rs.7,79,046 and to direct the respondent to pay the said amount with interest at 18 % per annum and the same was also dismissed on 02.09.2008.

4. In the meanwhile on account of mismanagement, the petitioner society has come to stand still and a liquidator was appointed on 06.08.2012 , vide his proceedings in Rc.No.2337/2011/Nu.Ku.dated 06.08.2012 and the same was also brought to the notice of Labour Court in CP.No.166 of 2014. However, the Labour Court has awarded and passed the award by allowing the computation petition and directing the petitioner to pay an amount of Rs.7,79,046/- along with interest at the rate of 6 per cent per annum and also directed to pay Rs.2,000/- towards cost.

5. The respondents also have filed execution petition for attachment of the property of the Deputy Registrar who is no way concerned with petitioner society.

6. Heard learned counsel for the petitioner and learned counsel for the respondent present. However, no counter is filed on behalf of the respondent. Perused material on record.

7. Since the petitioner society has already been liquidated, the Labour Court should not have passed orders in computation petition.



Similarly, the respondent side should not have filed execution petition No.39 of 2019. During the course of submissions, learned counsel for the respondent submitted that on account of Official Liquidator being appointed in respect of the petitioner co-operative stores, the respondent can take steps to get the orders of the CP executed against the Official Liquidator. The CP order was passed on 28.06.2018 and, the Official Liquidator was appointed, in the year 2012. Therefore, even on the date of passing order in the CP, the Official Liquidator was appointed. The Official Liquidator should have been made party in the CP by the respondent so that the proceedings would have been properly adjudicated. When the society is not in existence and a Liquidator was appointed and after the liquidation of the society, passing of an Award in the CP against the society is not proper, thereby liable to be set aside.

8. Considering the discussions made above, this writ petition stands disposed off setting aside the orders passed in CP No.166 of 2014 dated 20.06.2018. However, liberty is given to the respondent to take steps to recover the awarded amount through the Official Liquidator. On filing of application, the Official Liquidator of co-operative society is directed to consider and pass appropriate orders as quickly as possible not less than six (6) weeks from the date of receipt of copy of this order.



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There shall be no order as to costs. Connected miscellaneous petitions
also stand closed.

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Index :Yes/No

Speaking :Yes/No

Neutral Citation Case:Yes/No

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DR D.NAGARJUN,J.

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