IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2024

CORAM :

THE HONOURABLE **Mr.JUSTICE P.DHANABAL**

W.P.No.34690 of 2012
and
M.P.No.1 of 2012

The Special Officer/The Management
of Cuddalore District Central Co-Operative
Bank Ltd., Beach Road, Cuddalore – 607 001. ....Petitioner

Vs.

1. V.Karuppan
2. The Presiding Officer,
Labour Court, Cuddalore ...Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a writ of certiorari, calling for records of the second respondent relating to the impugned order of the second respondent dated 26.06.2012 in C.P.No.58 of 2010 and quash the same.

For petitioner	:	Mr.R.Arumugam
For R1	:	No appearance
For R2	:	Court

O R D E R

This writ petition is filed challenging the award dated 26.06.2012 Labour Court, Cuddalore (for brevity 'the Labour Court') in the claim petition in C.P.No.58 of 2010.

For the sake of clarity and convenience, the petitioner and the first respondent will be referred to as Management and Manger respectively.

2. The facts in brief as per the affidavit enclosed in this writ petition are as follows:

2.1 The workman was employed as a Manager in the Management and retired from service on 31.08.1997 and all the retirement benefits were paid to the Manager by the Management. But at the time of settlement of the retirement benefits an excess amount of Rs.15,677/- was paid to the Manager.

2.2. While so, after a span of three years, the Manager sent a notice claiming that an amount of Rs.40,464/- was retained by the Management and requested them to settle the same.

2.3. Thereafter, the Management sent a reply stating that the Manager was not entitled for the said claim amount. Further, the Manager filed a claim petition C.P.No.58 of 2010 and the Labour Court by order dated 26.06.2012 allowed the claim petition. Aggrieved by the same, the Management has filed this writ petition.

3. The learned counsel for the Management submitted that the claim petition itself is not maintainable as the Manager worked in the

designation of 'Manager' and not as a workman and hence, he was outside the purview of the Industrial Disputes Act (for brevity in short "The I.D.Act"). The Manager while he was working in the Management had received Rs.15,000/- as salary and he was not a workman and further, he had received all his retirement benefits without any objections.

4. The learned counsel for the Management further submitted that the Labour Court failed to see that the salary paid to the Manager was only Rs.9,443/- but by mistake it was paid as Rs.9,730/-. Therefore, based on this calculation, the Manager is entitled for only Rs.6,323/- and not Rs.22,000/- as claimed by him and hence, the order passed by the Labour Court, in C.P.No.58 of 2010 is liable to be quashed.

5. There is no representation for the respondents. Already notice was sent to the respondents but there is no appearance on behalf of them and their names were also printed in the cause list.

6. Heard the learned counsel for the Management and perused all the records.

7. In this case, there is no dispute that the first respondent was working as a Manager and also he worked as a Clerk and he already retired from service in the year 1997. The Manager was settled with an amount of Rs.2,19,394/- towards provident fund, out of the leave pay salary of Rs.1,14,743/- an amount of Rs.74,279/- was paid to the Manager and the remaining amount of Rs.40,464/- was retained by the Management under various heads *viz.,* Rs.2,000/- as P.F. adjustment, Rs.14,400/- towards income tax, Rs.1,064/- staff bank due and Rs.22,000/- advance repayable. Further, the Management has not informed to the Manager as to why the said amount was retained and the said amount was also not settled so far.

8. There is no dispute that the Manager was working in the Management and after retiring from service he had received all his retirement benefits without any objections. But according to the Manager, an amount of Rs.22,000/- was not settled to him.

9. Further, the Management also emphasized that the Manager was not working as a workman and he does not comes under the purview of the I.D.Act. Per contra, the Management in its counter affidavit filed

before the Labour Court had admitted that the retirement benefits to the Manager was also calculated as per the settlement arrived at under Section 12(3) of the I.D.Act, 1947. The Manager's actual salary was Rs.9,443/- but he was paid an amount of Rs.9,730/- and received a differential salary of Rs.10,503/- whereas difference in gratuity is Rs.3,838/- with salary difference is Rs.1,336/- totaling to a tune of Rs.15,677/-. Therefore, after deducting an amount of Rs.15,677/- from the claim amount of Rs.22,000/- the amount payable to the workman is only Rs.6,323/- and hence, the management is liable to pay only the said amount.

10. Therefore, on going through the counter affidavit filed by the Management, it is clear that the amounts have been settled only based on the settlement arrived at under Section 12(3) *ibid*. Moreover, as per the workman, he was working as a Clerk though he was working as a Manager and the same has been denied by the Management. When the amounts were settled based on the said settlement and as he was also working as a Clerk and doing clerical work, he will come under the purview of the I.D.Act. as workman. It is an admitted fact that an amount of Rs.22,000/- was deducted and retained from the retirement benefits of a workman without any intimation and according to the Management a sum

of Rs.15,677/- was paid to the Manager in excess and hence, the Management is ready to pay the balance sum of Rs.6,323/- to him.

11. The Manager retired from service on 31.08.1997 and as per the settlement arrived at under Section 12(3),*ibid,* an amount of Rs.6,09,873/- was paid to him as retirement benefits in which an amount of Rs.22,000/- was not paid to the Manager. There is no reason stated by the Management as to why the said amount was not paid when no excess amount was calculated as per the settlement arrived at under Section 12(3),*ibid,* while settling the retirement benefits to the Manager.

12. The Labour Court has elaborately discussed and came to a conclusion that once 12(3) settlement of the I.D. Act is arrived at between the employees and the Management in the course of Conciliation proceedings cannot subsequently be nullified by any party unilaterally. Further, the Manager who has claimed an interest at the rate of 12% p.a. is not entitled for the same as per 33 C(2) application.

13. In order to set aside the award passed by the Labour Court, Cuddalore, the Management is expected to make out a case that the order

passed by the Labour Court, Cuddalore are apparently perverse and shocks the conscience of this Court. On going through the records, this Court finds that there is no infirmity or perversity in the award under challenge.

14. In view of the above discussions there are no merits in this case, accordingly this writ petition is dismissed. Connected M.P. is closed. Costs made easy.

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vca

Index	:	Yes/No
Citation	:	Yes/No
Internet	:	Yes/No

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