



WEB COPY



W.P.No.7925 of 2020
and W.M.P.No.9362 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2024

CORAM

THE HONOURABLE MRS. JUSTICE N.MALA

W.P.No.7925 of 2020
and
W.M.P.No.9362 of 2020

The Management,
S331, Edanganasalai Primary Agricultural
Co-operative Credit Society,
Edanganasalai, Sankari,
Salem – 636 502.

... Petitioner

Vs.

E.S.Thangaraj

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the entire records relating to the award dated 03.09.2018 passed by the Labour Court, Salem in C.P.No.90/2016 and quash the same.

For Petitioner : Mr.M.N.Balakrishnan

For Respondent : Mr.K.V.Shanmuganathan

ORDER

Challenge in this writ petition is made to the Award dated
03.09.2018 in C.P.No.90/2016 on the file of the Labour Court, Salem.



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2. The respondent herein was working as Appraiser in the petitioner Society from 19.10.1991. He retired from service on 31.10.2016 after working continuously for a period of 25 years. He claimed to have drawn a salary of Rs.11,186/- at the time of retirement. As the retirement benefits were not settled to him, he sent a legal notice on 12.12.2016 to the petitioner Society seeking retirement benefits. As the petitioner society did not act on his request, he filed Computation Petition under Section 33C(2) of the Industrial Disputes Act, 1947 in C.P.No.90/2016 before the Labour Court, Salem claiming a sum of Rs.4,31,182/- with interest.

3. The petitioner Society vehemently contested the claim petition on the ground that the respondent was appointed as Appraiser on 19.10.1991 only on daily wages and that his employment was purely temporary in nature. It was contented that the service of the respondent was not regularized and therefore, he was not entitled for any retirement benefits or any other benefits. Also, the petitioner Society objected to the very maintainability of the claim petition on the ground that there was a



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dispute regarding the entitlement of the respondent to the claim and hence, he might to have approached proper forum for adjudicating his claim.

4.The Labour Court, Salem vide order dated 03.09.2018 allowed the Computation Petition by directing the petitioner Society to pay a sum of Rs.4,31,182/- along with interest. Aggrieved by the orders of the Labour Court, Salem, the petitioner Society has filed the present writ petition for the aforesaid relief.

5. The learned counsel for the petitioner submitted that the Labour Court failed to note that the proceedings under Section 33(C)(2) were in the nature of execution proceedings. The learned counsel submitted that the Labour court had no jurisdiction to enter into the disputed question of whether the respondent was a permanent employee or not.

6. The learned counsel for the respondent submitted that there is absolutely no infirmity in the Award of the Labour Court and hence no interference was necessary.



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7. I have carefully considered the rival contentions and I have gone through the materials on record. It is seen that the respondent filed Computation Petition for retirement benefits which included dearness allowance, casual leave, earned leave, medical leave etc. The respondent calculated his services from 19.10.1991 as permanent employee. The petitioner disputed the status of the respondent as a permanent employee. The Labour Court ventured into the disputed question of entitlement of the respondent to the claim. When the status of the employee was disputed, in the absence of a declaration of such status the Labour Court should not have entered into the arena of probing into the status of the respondent. The Labour Court could entertain the computation petition only if there was prior adjudication or recognition of the claim. The jurisdiction of the Labour Court under Section 33(C)(2) is that of an executing court and therefore, the Labour Court had no jurisdiction to entertain disputed claim. The Labour Court ought to have relegated the respondent to appropriate forum for adjudication of his rights. I am therefore of the view that the Award of the Labour Court is unsustainable and hence it is set aside.



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8. Accordingly, this writ petition is allowed. No costs.

Consequently, connected writ miscellaneous petition is closed.

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Index: Yes/No

Internet: Yes/No

Speaking/Non-Speaking order

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N.MALA, J.
mtl

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