



W.P.No.4646 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2024

CORAM :

THE HONOURABLE **DR. JUSTICE D.NAGARJUN**

W.P.No.4646 of 2015

and

M.P.No.1 of 2015

Cheramadi Primary Agricultural Co-operative
Credit Society represented by its President
Cherambadi Post, Pandalur Taluk
The Nilgiris.

... Petitioner

Vs.

1. The Presiding Officer,
Labour Court,
Coimbatore.

2. J.Vinu

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari, calling for the records pertaining to the award of the first respondent passed in C.P.No.203 of 2011 dated 24.10.2013 quash the said award dated 24.10.2013.



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For petitioner : Mr.B.Srinivasan & A.Praveen Kumar
For R1 : Mr.P.Gurunathan
Additional Government Pleader
For R2 : Mr.K.M.Ramesh
Senior Counsel

ORDER

This writ petition is filed seeking for a direction to set aside the award passed in C.P.No.203 of 2011 dated 24.10.2013.

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

2.1. The petitioner is the Primary Agricultural Cooperative Society. The second respondent was engaged as an Assistant Clerk in the petitioner's Society w.e.f. 21.03.1992. He was transferred to a fair price shop on 31.08.1996 as a Packer. Without joining the said post the second respondent has challenged the said order in I.D.336/2001 on the ground that he was transferred and posted in the fair price shop as a packer which is an inferior post and that the transfer was a punishment.

2.2. The Labour Court, Coimbatore has allowed the I.D. *vide*



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award dated 23.03.2005, by setting aside the transfer order and directed the petitioner Society to reinstate the second respondent with backwages and continuity of service. The petitioner Society has challenged the said award in W.P.No.34953 of 2005 on the file of this Court. The said W.P.No.34953 of 2005 was disposed of setting aside the award insofar as backwages and other attendant benefits and directed the petitioner Society to continue the second respondent in the services of the petitioner as Clerk and to pay him the salary attached to that post. The petitioner was reinstated as per the interim orders in W.P.No.34953 of 2005. Accordingly, the petitioner Society has offered to pay the salary applicable to the post of Clerk. The second respondent has refused to receive the salary from June 2010 to 22.02.2011. On 22.02.2011, the second respondent was retrenched from service on the ground that he was not born in the cadre strength of the Society and that the Society was running in losses.

2.3. The second respondent has filed a C.P.No.203 of 2011 claiming revision of salary under 12 (3) Settlement and wages for the post of Clerk from the period from June 2010 to 22.02.2011 including bonus, Provident Fund etc., totaling about Rs.3,95,687.00/-. The Labour Court

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has passed orders in C.P.No.203 of 2011, with a direction to the petitioner Society to pay Rs.3,48,208/-.

3. Heard both sides and perused the materials available on record.

4. The learned counsel for the petitioner Society has submitted that the Labour Court has failed to consider the fact that the petitioner Society has been paying the salary of a Clerk to the second respondent, as directed by the Labour Court in C.P.No.149 of 1997 dated 10.01.2000 as per 12(3) Settlement dated 15.03.1994, thereby, the second respondent is not entitled for revision of salary basing on 12(3) Settlement.

5. Originally, the second respondent was appointed as an Assistant Clerk. When he was transferred to the fair price shop as a packer, the salary was lesser than the salary of Assistant Clerk and therefore he, moved I.D.No.336 of 2001 and succeeded, Therefore, the petitioner Society has paid the salary as a Clerk. The petitioner Society, in this writ petition, has mentioned that the salary of the second respondent as



a Clerk was being paid. If the salary was revised in the cadre of Clerk, there is no dispute between the second respondent and the petitioner's Society and there would not be any occasion for the second respondent to file a claim petition.

6. According to the petitioner Society, the second respondent is entitled to Rs.67,148/-. If at all the petitioner's Society has been paying the salary to the second respondent as a Clerk, there would not have been any arrears of salary. However, because the petitioner's Society has been paying less than what the second respondent is entitled to as a Clerk, there were arrears of salary to be paid. The Labour Court, having considered the entire matter on record including the oral and documentary evidences concluded that the petitioner's Society has to pay Rs.3,48,208/-.

7. The petitioner Society has filed this writ petition seeking to set aside the award passed by the first respondent in C.P.203 of 2011. The scope of the petition is very limited. This Court is not as an appellate Court to re appropriate the evidence and decide as to whether the findings of the Labour Court are incorrect. Unless the award of the Labour Court is



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patently perverse and shocks the conscience of this Court, it is not excepted to intervene and set aside the award. When two views are possible and if the Labour Court has taken one view, it cannot be interfered with by this Court.

8. The second respondent has earlier filed C.P.No.149 of 1997 against the petitioner Society for similar relief and the said petition was allowed on 10.01.2000 and the award was implemented by the petitioner Society. According to the learned counsel for the second respondent, the present claim petition has been filed for the same relief but for a different period. Once the order in C.P.149 of 1997 has become final and since the award passed in C.P.No.203 of 2011 is also stated to be on similar lines for the different period on this ground also the petitioner Society cannot question the Claim Petition.

9. It is submitted by the learned counsel for the petitioner that in the impugned award, the labour Court has not discussed about the documents filed. However, merely because certain documents were not mentioned in the description of the award, it will not vitiate the award itself.



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10. On going through the entire materials on record, this Court is of the opinion that the impugned award passed by the Labour Court is not perverse or is not shocking the conscience of this Court, as the Labour Court has passed the impugned award considering entire materials on record and it is a reasonable order.

11. In view of the above, this writ petition is dismissed.
Connected M.P. is closed. No costs.

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vca

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

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Coimbatore.

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