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*Review Application (Writ) No.273 of 2014
and W.P.No.20353 of 2022*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

Review Application (Writ) No.273 of 2014
in W.P.No.275 of 2010
and
W.P.No.20353 of 2022

Review Application (Writ) No.273 of 2014:

The Management of Coimbatore,
District Central Co-operative Bank Ltd.,
State Bank of India Road,
Coimbatore – 641 018.

... Petitioner

Vs.

1.K.Kovindasamy

2.Deputy Commissioner of Labour,
Appellate Authority under the
Tamil Nadu Shops and Establishment Act, 1947,
Coimbatore – 641 018.

... Respondents

Prayer: Review Application (Writ) filed under Article 226 of the Constitution of India, to review the order dated 07.07.2014 passed in W.P.No.275 of 2010.



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Review Application (Writ) No.273 of 2014
and W.P.No.20353 of 2022

For Petitioner : Mr.A.Venkatesan

For Respondents : Mr.Dharani Subramanian

W.P.No.20353 of 2022:

K.Kovindasamy

... Petitioner

Vs.

Coimbatore District Central Co-operative Bank,
Rep. by its General Manager,
80, Bank Road, P.B.No.3781,
Coimbatore – 641 018.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned communication in Na.Ka.No.001199/2021/E1 dated 22.06.2022 sent by the respondent and quash the same and consequently direct the respondent to disburse the petitioner's retirement benefits.

For Petitioner : Mr.Dharani Subramanian

For Respondent : Mr.A.Venkatesan
for Mr.S.Saravanan



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COMMON ORDER

The review petition has been filed by the petitioner Management against the order dated 07.07.2014 made in W.P.No.275 of 2010.

2. In fact, the writ Petition in W.P.No.275 of 2010 has been filed challenging the order of the appellate Authority under the Tamil Nadu Shops and Establishments Act, 1947 in an appeal preferred by the respondent/ workman in T.N.S.E.No.4 of 2001. The Management has chosen to challenge the above order passed by the appellate Authority by preferring a writ petition in W.P.No.275 of 2010.

3. In the grounds made in the Review Application nothing is stated about any apparent error on record on law or facts, which might have led to a different consequence, had it been considered by the Court. In fact, the order dated 07.07.2014 passed in W.P.No.275 of 2010 is a detailed speaking order by completely considering the grounds raised by the petitioner Management, though no representation has been made on behalf of both the petitioner and the respondent.



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4. Earlier the 1st respondent workman has filed W.P.No.4846 of 2004 challenging the order dated 05.10.2002 dismissing the appeal filed by him before the appellate Authority under the Tamil Nadu Shops and Establishments Act, 1947, holding that he was permitted to retire from service on attaining the age of superannuation by 30.10.1999. It is held that there was no employer and employee relationship between the Manager and the workman. When the said order was challenged in W.P.No.4846 of 2004 the Single Bench of this Court dismissed the writ petition vide order dated 03.03.2004. However, the writ appeal filed by the workman in W.A.No.1517 of 2006 was allowed on 31.07.2008 by holding that the appellate Authority has jurisdiction to decide the appeal of the petitioner on merits and thus, the matter was remitted back to the file of the appellate Authority and thereafter it has been re-considered by the appellate Authority and the same has been allowed on 24.11.2008.

5. Having recorded the above facts, this Court has also ventured into the grounds raised by the Management in the writ petition. The two



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vital grounds that have been raised for consideration is about the alleged non-consideration of the domestic enquiry and proving of charges in the same and the other ground is that the appellate Authority has given a contradictory findings. After having dealt all the above issues on its own merits, the writ petition was dismissed.

6. Now, once again in the name of the review application, the petitioner has reiterated the very same grounds, which has been raised by him in the writ petition and for this no review application can be entertained. Hence, this review application is **dismissed**. No costs.

7. So far as the other impugned order involved in the writ petition in W.P.No.20353 of 2022 is concerned, it is the order of the Management dated 22.06.2022.

8. Consequent to the dismissal of the writ Petition in W.P.No.275 of 2010, the workman has given a representation claiming his retirement benefits. However, in the impugned order dated 22.06.2022 the



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Management successfully dodged from disbursing the said benefits by citing the pendency of the review application.

9. Now the review application has been dismissed by holding that it does not make out any ground to maintain the same. Even though the review application is filed, it is well within the knowledge of the Management that no order of stay has been passed by staying the operation of the order of the appellate Authority under the Tamil Nadu Shops and Establishments Act, 1947 and the consequent order of dismissal made in W.P.No.275 of 2010.

10. Looking at it from whichever angle, the Management is liable to pay the terminal benefits as per the representation of the petitioner. The impugned order has been passed just by taking advantage of one little review application filed in the year 2014 and thereby preventing the petitioner from reaping the benefits of favourable order that he has obtained in the year 2008. Hence, the impugned order very much deserves to be set aside.



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11. Accordingly, the writ petition is allowed and the impugned communication in Na.Ka.No.001188/2021/E1 dated 22.06.2022 sent by the respondent is quashed. Consequently, the respondent is directed to disburse the petitioner's retirement benefits along with interest @ 6% per annum from the date of order to the date of realisation, within a period of two (2) weeks from the date of receipt of a copy of the order. The respondent is also directed to pay the costs of Rs.50,000/- to the petitioner along with the terminal benefits.

12. In the result, this writ petition is **allowed**. No costs.

18.10.2024

Index : Yes /No
Neutral Citation : Yes / No
Speaking / Non-speaking
dsa

To
The Management of Coimbatore,
District Central Co-operative Bank Ltd.,
State Bank of India Road,
Coimbatore – 641 018.



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R.N.MANJULA, J.

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