



W.P.No.28881 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :07.08.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.28881 of 2022 and
W.M.P.Nos.30646 & 28176 of 2022

The Management
No.K 1751
Govindanur Primary Agri Co-operative
Credit Society,
Govindanur,
Puravipalyam (PO)
Pollachi T.K. - 642110

... Petitioner

Vs.

A.Mahalakshmi

... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to order dated 01.04.2022 passed in I.D.No.15/2018 on the file of the Additional Labour Court, Coimbatore and to quash the same.

For Petitioner : Ms.Kanimozhi Mathi

For Respondent : Mr.S.P.Srinivasan



W.P.No.28881 of 2022

ORDER

This Writ Petition has been filed for the issuance of a Writ of Certiorari, to call for the records relating to order dated 01.04.2022 passed in I.D.No.15/2018 on the file of the Additional Labour Court, Coimbatore and to quash the same.

2. Heard Ms.Kanimozhi Mathi, learned counsel for the petitioner, Mr.S.P.Srinivasan, learned counsel for the respondent and perused the materials available on record.

3. The learned counsel for the petitioner Society submitted that it has been already represented before the Court that they do not have any issue to reinstate the respondent, but the problem is that the petitioner is a 'B' grade Society and hence, the post of Assistant Secretary is not available there.

4. The best course available for both the parties is to approach the Joint Registrar for posting the respondent in the Society which has got the post of Assistant Secretary. It is learnt that the respondent was terminated



W.P.No.28881 of 2022

when she was working as a saleswoman in the petitioner Society.

However, once the relief of reinstatement along with continuity of service and all other attendant benefits with backwages is granted, on account of her long service, she would be entitled to get the post of Assistant Secretary. According to the petitioner, as of now, the petitioner Society cannot accommodate the respondent in the said post.

5. But the learned counsel for the respondent submitted that the respondent has been in the post of Assistant Secretary in the petitioner's Society even at the time she was called to offer explanation on 11.03.2016, in connection with the disciplinary action initiated against her for her alleged absence. In such case, the petitioner's Society cannot come and say that they do not have the post of Assistant Secretary and the order of reinstatement would only restore the position *ante* to the litigation and hence, the petitioner cannot raise a plea that the post of Assistant Secretary is not available and it is difficult to accommodate the respondent.



W.P.No.28881 of 2022

6. As rightly pointed out by the learned counsel for the respondent even while the disciplinary action was initiated against the respondent, the petitioner has described the respondent as Assistant Secretary and she has been accommodated in the petitioner Society. Though for any extraneous reasons, the post of Assistant Secretary is not available and the said post cannot be authenticated by the petitioner's Society, it is for the petitioner to write to the appropriate authority either to ratify the said post or to accommodate the respondent elsewhere.

7. So far as the relief of reinstatement is concerned, the petitioner is directed to take back the respondent as how she was working with the petitioner Society before her termination. The records would show that the respondent has functioned as Assistant Secretary and she has been referred so in all the charge memos etc. The reason for terminating the respondent is in view of the disciplinary proceedings taken against her for the alleged absence and not on the allegation that the respondent has been promoted to the post of Assistant Secretary due to any of the role played by her in getting promotion to the said post. In such case, that issue



W.P.No.28881 of 2022

cannot be addressed before this Court. Or in other words, the position that existed before the respondent's termination will stand good and will not get altered due to the pending litigation before the Labour Court.

8. Hence, I feel that this Writ Petition can be disposed by confirming the award of the Labour Court and by directing the petitioner to reinstate the respondent. With regard to the availability of the post of Assistant Secretary is concerned, the petitioner is at liberty to continue whatever correspondence that was made in this regard before the termination of the respondent. It is to be noted that the petitioner has already sent a representation to the Joint Registrar in this regard. In such case, the respondent is also at liberty to send representation and see that the problem pertains to the availability of the post is resolved. It is reiterated that the above issue will not stand in the way of reinstating the respondent to the position where she was before the termination.

R.N.MANJULA, J.



W.P.No.28881 of 2022

gsk

WEB COPY

9. Accordingly, this Writ Petition is disposed and the petitioner is directed to reinstate the respondent within a period of two weeks from the date of receipt of a copy of this order, along with continuity of service and backwages. The respondent is also directed to submit a representation to the Joint Registrar in this regard. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes /No

07.08.2024

Speaking / Non-speaking

Neutral Citation : Yes / No

gsk

To

The Additional Labour Court,
Coimbatore.

W.P.No.28881 of 2022 and
W.M.P.Nos.30646 & 28176 of 2022