



W.P.No.2826 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.02.2024

CORAM :

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

W.P.No.2826 of 2014

The Management,
Naduvananthal Primary Co-operative Bank,
Naduvananthal Village
Tindivanam Taluk, Villupuram District.

... Petitioner

Vs.

1. The Presiding Officer,
Labour Court, Cuddalore.

2. M.Selvarasu

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari calling for the records of the first respondent in I.D.No.103 of 2004 dated 23.04.2012.

For petitioner	:	Mr.L.P.Shanmugasundaram
For R1	:	Labour Court
For R2	:	Mr.C.Prakasam



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ORDER

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This writ petition is filed to quash the orders passed in I.D.No.103 of 2004 dated 23.04.2012.

2. It is submitted by the learned counsel for the petitioner that the second respondent joined the petitioner's Bank on 13.02.1996 as a Night Watchman and his services were regularized w.e.f., 28.12.1996.

3. It came to know that the petitioner's age was 30 years more than what he had informed to the bank at the time of joining. As per (2) of by law of the petitioner's Bank, that persons beyond 30 years of age cannot be appointed into the services of the petitioner's Bank. The petitioner's Bank called for the details about the date of birth of the respondent from the Registrar of birth and deaths, Vallam and found that the second respondent's date of birth was as 09.04.1946, whereas the date of birth marked as per the certificate submitted by the second respondent at the time of joining is 21.05.1961. Thereby, the second respondent was 35 years as on the date of appointment thereby as per bylaws of the petitioner's Bank the second respondent could not have been appointed. Accordingly, after conducting



enquiry the second respondent was dismissed from service. The second respondent raised an industrial dispute in I.D.No.103 of 2004 seeking for reinstatement with back wages and other attendant benefits and the same was allowed setting aside the order of dismissal. Aggrieved by the same, this writ petition is filed.

4. It is submitted by the learned counsel for the petitioner that the Labour Court has not given proper opportunity to the petitioner's bank and that the second respondent has given false information in respect of his date of birth and hence, submitted that the impugned orders are erroneous and are liable to be set aside. The learned counsel for the second respondent submitted that the enquiry conducted by the Bank was proper the Labour Court was not erroneous in passing the order in I.D.No.103 of 2004, thereby sought for dismissal of the writ petition.

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

6. During the course of enquiry on behalf of the petitioner's Bank one witness was examined whereas on behalf of the second respondent no



witnesses were examined. Similarly, on behalf of the petitioner's Bank 18 documents were marked whereas on the side of the second respondent only one document was marked.

7. The Labour Court in the impugned award gave a finding that the domestic enquiry against the second respondent was not conducted in fair and proper manner. In respect of appreciating the evidence by the enquiry officer also, the Labour Court has found fault with the conclusion of the enquiry officer that the appointment of the second respondent was irregular. During the course of the enquiry the petitioner's Bank has not submitted any age proof of the second respondent before the enquiry officer. Unless the age certificate is filed by the second respondent, the date of birth certificate given by the Registrar which was placed before the enquiry officer cannot be used to conclude that the age certificate given by the second respondent is not genuine. After analyzing all the aspects, the Labour Court has concluded that the findings of the enquiry officer were erroneous and the second respondent is entitled for re-instatement with continuity of service. However, back wages was not awarded as the second respondent has not claimed the same.



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8. The second respondent is aged about 62 years now, even if this writ petition is dismissed the second respondent cannot be re-instated and that the second respondent before the Labour Court has not claimed back wages but sought for continuity of service. The petitioner's Bank is required to give continuity in service as directed by the Labour Court.

9. In view of the above, this writ petition is dismissed. Costs made easy.

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vca

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

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