



WEB COPY



W.P.No.30930 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 07.03.2024

Coram:

THE HONOURABLE MRS.JUSTICE N.MALA

W.P.No.30930 of 2018

and

WMP.No.36078 of 2018

The Management,
Salem District Consumer Co-operative
Wholesale Stores Ltd,
Seetharaman Road,
Salem.

...Petitioner

VS

S.Rajammabal

....Respondent

Writ petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, call for the records in C.P.No.97 of 2014 on the file of the Labour Court, Salem the respondent herein, quash the final order dated 10.04.2018 passed therein.

For Petitioner : Mr.M.R.Raghavan

For Respondent : Mr.K.V.Shanmuganathan



W.P.No.309 of 2018

ORDER

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Writ petition is filed challenging the Award dated 10.04.2018 passed in C.P.No.97 of 2014 on the file of the Labour Court, Salem.

2. The respondent was employed in the sales department and in the course of employment, she was involved in serious misconduct of manipulation of records. An enquiry was conducted and thereafter the respondent was dismissed from service on 11.03.1998. The respondent challenged the dismissal order in I.D.No.197 of 1992 and the Labour Court passed an award directing the petitioner to reinstate the respondent with continuity of service but without backwages. The said Award of the Labour Court was challenged in W.P.No.17339 of 1995 before this Court, and the same was dismissed confirming the Award of the Labour Court. During the pendency of the writ petition, the respondent was reinstated in service. The respondent thereafter filed the C.P.No.97 of 2014 under Section 33(C)(2) of the I.D. Act before the Labour Court, Salem claiming



W.P.No.309 of 2014

Rs.6,51,944/-. The said application was filed on the basis that the respondent was entitled to wages from 15.03.1995 till 01.01.2014 and on the basis that respondent was granted the relief of retirement benefits under the earlier order. The Labour Court on the basis of the materials on record allowed the claim petition directing the petitioner to pay Rs.3,11,796/- along with 6% interest, failing payment further interest of 9% was imposed. Challenging the Award passed in the C.P., the petitioner has filed the above writ petition.

3. The learned counsel for the petitioner submitted that the Labour Court misinterpreted the Award passed in the I.D. by including the attendant benefits which was not allowed in the original award. The learned counsel further submitted that it is settled law that the Labour Court while deciding the petition under Section 33(C)(2) of the Act, acts as an Executing Court and therefore it could not travel beyond the Award. The learned counsel finally submitted that the Labour Court erred in thinking that continuity of service meant granting of attendant benefits.



W.P.No.309 of 2014

WEB COPY

4. The learned counsel for the respondent on the other hand submitted that the respondent had filed a memo dated 26.02.2014 before the Labour Court admitting its liability to the tune Rs.4,44,992/- and therefore the said admitted amount may be directed to be paid.

5. I have heard both the learned counsels and I have perused the materials placed on record.

6. As rightly contended by the learned counsel for the petitioner the Labour Court misinterpreted the Award in construing that there was an order for payment of backwages and all monetary benefits. When the Award of the Labour Court was confirmed by this Court in W.P.No. 17339 of 1995, the only relief granted was reinstatement with continuity of service. There was no order granting backwages, monetary benefits and all other attendant benefits. The only submission of the learned counsel for the respondent is that as there was an admission of liability of Rs.4,44,992/-



W.P.No.309 of 2024

in the memo filed before the Labour Court the petitioner was bound to pay the said sum. It is the contention of the learned counsel for the petitioner that the memo filed was not an admission of the liability, but was filed on the direction of the Labour Court to file a memo of calculation.

I am therefore of the view that the Award of the Labour Court cannot be sustained, as it has travelled beyond the Award passed in I.D.197 of 1992. Writ petition is accordingly allowed. No costs. Consequently connected WMP is closed.

07.03.2024

dsn

Index:Yes/No

Speaking Order:Yes/No

Neutral citation:Yes/No



WEB COPY



W.P.No.30930 of 2018

N.MALA,J.

dsn

To
1.The Management,
Salem District Consumer Co-operative
Wholesale Stores Ltd,
Seetharaman Road,
Salem.

2.The Labour Court,
Salem.

W.P.No.30930 of 2018

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