



W.P.Nos.12117 & 12118 of 2010

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M.DHANDAPANI,J.

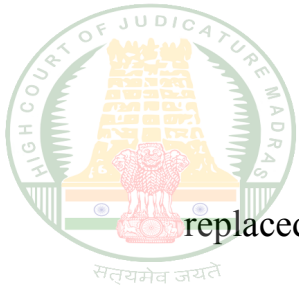
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Today the matter is listed under the caption “for being mentioned”.

2. Learned counsel appearing for the petitioner submitted that though this Court accepted the submissions of the learned counsel for the petitioner while allowing the above writ petitions to withdraw the 25% of the backwages directed to be deposited in the Labour Court, however, the same has not been recorded in the order dated 04.02.2025. Accordingly, he prays for necessary correction in the order.

3. He further submits that the name of the respective fourth respondents in respective writ petitions were not shown separately in the cause list. Therefore, one R.Durai Panidan shall be incorporated as the fourth respondent in W.P.No.12117 of 2010 and one D.Deivanai shall be incorporated as the fourth respondent in W.P.No.12118 of 2010. In respect of the respondents 1 to 3, the same shall remain unaltered in both the writ petitions.

3. A perusal of the papers reveal that inadvertently, a typographical error has occurred in Paragraph No.6 of the order dated 04.02.2025. Therefore, paragraph 6 of the order dated 04.02.2025 shall stand



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replaced with the following:-

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“6. Following the same, the respective impugned orders dated 31.03.2010 are set aside and the writ petitions are allowed in above terms. The management is permitted to withdraw the 25% of the backwages which was deposited on the directions of the Labour Court. No costs. Consequently, connected miscellaneous petitions are closed.”

4. Registry is directed to carry out the necessary correction in the aforesaid paragraph and also in the cause title in the order dated 04.02.2025 and issue fresh copy of the order to the learned counsel for the parties.

03.07.2025

RAP



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03.07.2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS



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DATED : 04.02.2025

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.Nos.12117 & 12118 of 2010

and

M.P.Nos.1 of 2010 & 1 to 3 of 2011 & 1 to 4 of 2011

K.2088, Kovil Vazhi Primary Agricultural
Co-operative Credit Society,
Rep. by its Special Officer,
Muthananpalayam Post,
Vihayapuram Via, Thiruppur Taluk,
Tiruppur District.

.....Petitioner in both W.Ps

Vs.

1. The Presiding Officer,
Labour Court,
Coimbatore.

2. The Special Officer,
Tiruppur Co-operative
Whole Sale Stores,
Tiruppur,
Tiruppur District.

3. The Joint Registrar of Co-operative
Societies, Coimbatore Region,
Coimbatore District.

4. R.Durai Pandian

... Respondents

Prayer in W.P.No.12117 of 2010: Writ Petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, to call for the records in pursuance of the award passed in I.D.No.318/97 dated 31.03.2009 on the file of the 1st respondent and quash the same.



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Prayer in W.P.No.12118 of 2010: Writ Petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, to call for the records in pursuance of the award passed in I.D.No.319/97 dated 31.03.2009 on the file of the 1st respondent and quash the same.

For Petitioner : Mr.M.S.Palaiswamy

For Respondent No.1 : Court

For Respondent No.2 : Mr.C.Munusamy

For Respondent No.3 : Mr.K.Tamil Vendan
Government Advocate

For Respondent No.4 : Mr.B.Nedunchezhiyam

COMMON ORDER

These petitions are filed by the petitioner aggrieved by the order of reinstatement granted by the first respondent herein vide I.D.Nos.318 & 319 of 1997 dated 31.03.2009.

2. The fourth respondents were working as sales person in the petitioner society. During the year 1996, the third respondent herein delinked the petitioner society and brought it under the control of second respondent. Since the society was no longer under the control of the Public Distribution



Shop, the fourth respondents were left in the lurch. They raised industrial disputes and the first respondent Labour Court directed the petitioner to reinstate them.

3. The learned counsel for the petitioner submitted that the fourth respondent in W.P.No.12118 of 2010 was involved in misappropriation and he was dismissed from service. Therefore he submitted that the order of the Labour Court needs interference. This Court is not entering into the merits or otherwise of the individual writ petitions.

4. The issue is whether the salesman working in the public distribution shops are entitled for regularisation, which came up before this Court for consideration in W.A.No.49 of 2010 and W.P.Nos.8465 to 8469 of 2009. This Court vide order dated 31.03.2010 negated the prayer made by the sales person therein.

5. The relevant paragraphs are as follows:

“13. On the other hand, in the unreported judgment in W.A. No.368 of 2004 etc. dated 31.3.2006, while factually findings have been given, G.O. Ms. No.3 which has been upheld in 1996 (I) L.L.J. 319 (supra) was not brought to the notice of the court. So long as G.O. Ms. No.3 stands



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unchallenged and is not quashed, we have to accept the stand of the Government that salesmen running the fair price shops are not regular staff of the Primary Agricultural Co-operative Banks. The Government did not accept the recommendation to treat them equally.

14. In L. Justine vs. The Registrar of Co-operative Societies, 2002 (4) C.T.C. 385, appointments made without qualification and beyond the sanctioned strength were held to be backdoor entry. In the present case, the stand of the appellant is that the second respondent was not qualified and final orders of regularisation were still awaited in his case. On facts, with regard to the workman Velu, it is stated that he lost his job because of proven charges of misappropriation. In the order dated 8.1.2003, the Division Bench has clarified their decision in Justine's case in 2002 (4) C.T.C. 385 that, "If the cadre strength has already been fixed taking into consideration the relevant Governmental orders like G.O. Ms. No.131 dated 4.6.1999, G.O. Ms. No.89 dated 16.5.2000, G.O. Ms. No.186 dated 16.8.2000, G.O. Ms. No.238 dated 19.10.2000, G.O. 4(D) No.1 dated 12.1.2001 and G.O. Ms. No.94 dated 13.3.2001, that will stand and while considering the cadre strength, the above Governmental orders shall also be taken into consideration". This also makes it clear that G.O. Ms. No.238 is still holding the field. G.O. Ms. No.238 specifically refers to salesmen and packers. G.O. Ms. No.3 makes it clear that the workers in fair price shops cannot be treated as a regular staff. So, G.O. Ms. No.131 cannot apply to them. G.O. Ms. No.75 dated 29.4.2008 has referred to G.O. Ms. No.238 and G.O. Ms. No.289 and had accepted the request of the



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Associations of employees working in fair price shops that their annual income should be increased. This G.O. has also clearly referred to salesmen and packers in fair price shops as a separate category.”

6. Following the same, the respective impugned orders dated 31.03.2010 are set aside and the writ petitions are allowed in above terms. No costs. Consequently, connected miscellaneous petitions are closed.

04.02.2025

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes/No
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To

1. The Presiding Officer,
Labour Court,
Coimbatore.
2. The Special Officer,
Tiruppur Co-operative



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Whole Sale Stores,
Tiruppur,
Tiruppur District.

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3. The Joint Registrar of Co-operative
Societies, Coimbatore Region,
Coimbatore District.

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