

W.P.No.2443 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Special Original Jurisdiction)

RESERVED ON : 06.03.2025
PRONOUNCED ON : 23.04.2025

PRESENT:

THE HON'BLE DR. JUSTICE A.D. MARIA CLETE

W.P.No.2443 of 2020
and
W.M.P. No. 2840 of 2020

1. The Managing Director,
Tamil Nadu Handlooms Weavers
Co-operative Society Ltd,
Balasundaram Buildings,
No.350, Pantheon Road,
Egmore, Chennai – 600 008.

2. The Regional Manager,
Tamil Nadu Handlooms Weavers
Co-operative Society Ltd,
Regional Office,
Bangalore High Road,
Opposite Government ITI,
Vellore – 632 010.
Vellore District.

....Petitioners

Vs

1. V.Vijayan
S/o. Thiru.V.Venkatesan,
No.56/227. Nethaji Street,
Thiruvallur – 602 001.
Thiruvallur District.

2. R2 deleted vide order dt. 28.2.2024
in WMP No.2276 of 2024



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3. The Special officer,
Tamil Nadu Handloom Weavers
Co-operative Society Ltd,
Balasundaram Buildings,
No.350, Pantheon Road,
Egmore, Chennai – 600 008.

...Respondents

Prayer in W.P.

To issue Writ, Order or Direction, more particularly a Writ of Certiorari to call for the records of the Principal Labour Court, Chennai in connection with the impugned Award dated 18/11/2019 in ID No.315 of 2014 and quash the same and award costs to the Petitioner and pass such further or other orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

Prayer in WMP No. 2840 of 2020

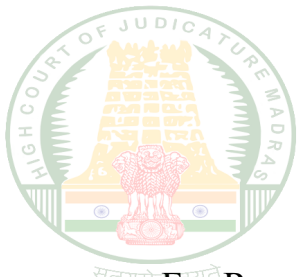
To stay the operation of the impugned Award dated 18.11.2019 passed by the Principal Labour Court, Chennai in ID No. 315/2014 pending disposal of the present writ petition and pass such further or other orders as this Hon'ble court may deem fit and proper in the facts and circumstances of the case.

Appearance of Parties:

For Petitioners : M/s.Shubharanjani Ananth, S.Balasubramanian and
N.Darani Advocates.

For Respondent 1 : Mr.V.Saravanan, Advocate
For Mr.S.Gunasekaran, Advocate

R2 – Deleted.



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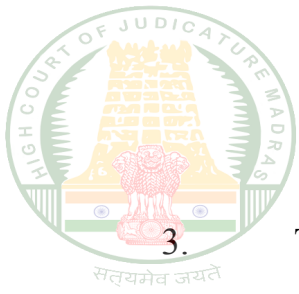
For Respondent 3 : Mr.R.Kumaravel, AGP

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JUDGMENT

Heard.

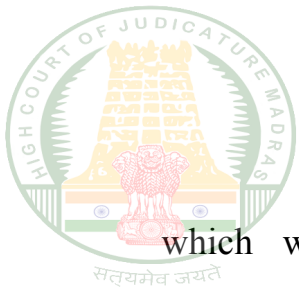
2. The 1st writ petitioner is the Management of Tamil Nadu Handloom Weavers Co-operative Society, and the 2nd writ petitioner is its Regional Manager. In the present writ petition, they have jointly challenged the award dated 18.11.2019 passed by the Principal Labour Court, Chennai, in I.D. No. 315 of 2014. By the said award, the Labour Court held that the dismissal order dated 05.08.2002 (marked as W12) was illegal. Consequently, the dismissal was set aside and the writ petitioners were directed to reinstate the 1st respondent and compute his back wages from 05.08.2002 up to the date of his retirement. The court further directed that 50% of the computed amount be paid to the 1st respondent on or before 18.12.2019, failing which the amount would carry interest at the rate of 9% per annum. The Court further stated that 1st respondent was not granted reinstatement as he had attained the age of superannuation, the Labour Court nonetheless held that he was entitled to all attendant benefits.



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3. The writ petition was admitted on 04.02.2020. On the same day, an interim stay was granted, taking note of the fact that the workman had approached the Labour Court after a lapse of 12 years from the date of his dismissal, and therefore, the dispute was prima facie barred under Section 2A(3) of the Industrial Disputes Act. However, the stay was initially limited to a period of six weeks. Subsequently, when the matter was listed on 18.03.2020, the interim order was extended. Pursuant to notice issued by this Court, the Labour Court has forwarded the original records pertaining to the industrial dispute.

4. The petitioners have stated that the 1st respondent was initially appointed as an Assistant Salesman in the year 1972, and his services were regularized in May 1979. During the year 1983–84, he was transferred to Chennai and posted at the Thillaiyadi Valliammai Maaligai. Subsequently, in 1992, he was transferred to Tiruvallur, then in 1994 to Ambattur, and thereafter, on 16.05.1995, he was posted to Nagalapuram. In 1996, he was placed under suspension. On 05.08.1998, he was transferred to Madhanappalli in the State of Andhra Pradesh. However, the 1st respondent refused to resume work at Madhanappalli, citing medical reasons. He addressed a letter dated 23.11.1998 to the petitioner management requesting cancellation of the transfer order,



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which was followed by another communication dated 26.11.1998. He subsequently applied for medical leave from 23.12.1998 to 28.12.1998, and again from 26.01.1999 to 12.04.1999.

5. The petitioner management issued a charge memo to the 1st respondent on 11.11.1999, followed by an additional charge memo dated 26.07.2000. Two reminder memos were issued seeking his explanation. Subsequently, an enquiry notice was issued on 10.04.2001, and the enquiry report was submitted on 19.04.2001. Based on the findings of the enquiry, a show cause notice was issued to the 1st respondent along with a copy of the enquiry report. Pursuant to a final show cause notice dated 05.04.2002, the 1st respondent submitted his explanation on 10.06.2002. Thereafter, by order dated 05.08.2002, the 1st respondent was dismissed from service. Aggrieved by the dismissal, he preferred an appeal to the Special Officer (3rd respondent), which came to be rejected on 06.01.2009.

6. Thereafter, the 1st respondent preferred a revision petition before the Secretary to Government. Although the Secretary was initially impleaded as



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the second respondent in the present proceedings, the State was subsequently

deleted from the array of parties on an application filed by it. The said revision

came to be rejected by order dated 06.06.2011. Aggrieved thereby, the 1st

respondent filed W.P. No. 29147 of 2012 before this Court challenging the

rejection of the revision. However, this Court, by order dated 12.08.2014, held

that the 1st respondent was at liberty to approach the Labour Court and that the

question of delay in raising the dispute need not be treated as a bar. The

relevant portion of the order reads as follows:—

“This writ petition is filed challenging the order of dismissal dated 05.08.2002 passed by the 2nd respondent, which was confirmed by the 3rd respondent and 1st respondent by orders dated 06.01.2009 and 06.06.2011 respectively and for a direction to the respondents to reinstate the petitioner from 05.08.2002 and pay back all the service benefits to him.

2. Admittedly, as against the impugned orders, the petitioner has got a remedy before the Tribunal. But, the order of the Appellate Authority and the Government, states that there is a delay of 5 years in filing the appeal.

3. However, today, when the matter is taken up, learned Government Advocate appearing for respondents 1 to 3 and the learned counsel for the 4th respondents submitted that if any appeal is preferred by the petitioner within 15 days before the Tribunal, then they would have no objection and they are willing to contest the matter on merits.

4. In view of the submission now made by the learned counsel on either side, the petitioner is permitted to approach the Tribunal having jurisdiction under the Co-operative Societies Act by way of an appeal within 15 days from the date of receipt of a copy of this



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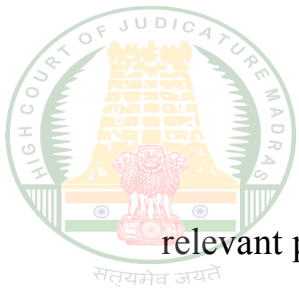
order. The Tribunal is directed to take up the issue and decide the same on merits, if an appeal is filed within 15 days from the date of receipt of this order. The issue regarding laches need not be gone into by the Tribunal as 15 days' time has been granted to the petitioner by this Court. The writ petition is disposed of with the above directions.”

7. In the counter affidavit filed by the 2nd petitioner in the said writ petition, the following averments were made in paragraphs 11 and 12:—

“I state that the Petitioner filed a Revision Petition under Section 153 of the Tamil Nadu Cooperative Societies Act, by his Revision Petition dated 09-12-2009 to the Director of Handloom & Textiles, Chennai, which was rejected since it was not filed with the limitation of three months prescribed under the said Section.

Reverting to the grounds stated in the Writ Petition, I state that the Order of dismissal and the Order of rejecting his Revision Petition are thus legal and valid.”

8. Having taken such a stand before this Court in the earlier proceedings, it is unclear how the learned counsel for the management subsequently conceded that the matter could be pursued before a Co-operative Tribunal by way of an appeal, and also the learned Judge has agreed to direct such a course. Notably, Section 152 of the Tamil Nadu Co-operative Societies Act, 1983, which establishes the jurisdiction of the Co-operative Tribunal, does not contemplate an appeal against a revision order passed under Section 153 of the Act. The



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relevant provisions under Section 152(1) and (2) are extracted below:—

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(1) Any person aggrieved by—

(a) any decision or award passed or order made or proceedings taken under sub-section (1) of section 87, sub-section (2), sub-section (3) or sub-section (4) of section 90, section 118, section 119, section 143, section 144 or section 167; or

(b) any award of an arbitrator or arbitrators under sub-section (2) or sub-section (3) of section 90; or

(c) any award of an arbitrator under section 100, may appeal to the Tribunal: Provided that nothing contained, in clause (a) or clause(b) of this sub-section shall apply to —

(i) any decision, order or award under sub-section (2), sub-section (3) or sub-section (4) of section 90, in respect of any matter relating to, or in connection with, the constitution of a board including any election thereto; or

(ii) any decision, order or award under sub-section (2), sub-section (3) or sub-section (4) of section 90 in respect of any matter relating to, or in connection with, any matter not being a money claim;

(iii) any order of transfer, reference, withdrawal or re-transfer of a dispute under subsection (2) or sub-section (3) of section 90,

(2) (a) Any person aggrieved by any—

(i) decision under section 7, sub-section (4) of section 23, sub-section (6) of section 34; or

(ii) refusal to register the society under sub-section 9 or the amendment of the by-laws under section 11; or

(iii) registration of amendment of the by-laws under sub-section (2) of section 12; or

(iv) approval of or refusal to approve the expulsion of a member under sub-section (2) of section 25, the proposal to take loan under clause (e) of sub-section (I) of section 105, the decision of the board under clause (ii) of sub-section (1) of section 106, the regulations under section 108 or the removal of a member under



the proviso to section 109; or

(v) order under section 14, clause (ii) of sub-section (2) of section 21, section 36, subsection (1) of section 88, sub-section (1) of section 89, section 137 or section 181, may appeal if such decision, refusal, registration, approval or refusal to approve or order is that of—

(A) the Registrar for the State, to the Government; or

(B) any other person, to the Registrar.

Explanation. __For the purposes of this clause; "person aggrieved" means in relation to section 11 or section 12, the registered society.

(b) Any person, who is refused admission to a registered society under sub-section (2) of section 21 or who is aggrieved by any order of the liquidator under section 139, may appeal to the Registrar.”

9. However, the 1st respondent did not understand the order of this Court dated 12.08.2014. He was under the impression that the order granted him permission to approach the Labour Court to challenge his dismissal. This understanding is reflected in paragraph 16 of the claim statement filed in I.D.

No. 315 of 2014, wherein he stated as follows:—

“The petitioner further submits that the above said writ petition which was taken up for admission on 30-10-2012 and the Hon’ble High Court was pleased to admit the main writ petition and notice was ordered on the same. Subsequently the matter was listed for filing of counter by the respondents department. The respondents department has also filed the detailed counter and raised preliminary objection that the petitioner herein as efficacious alternative remedy under the Industrial Disputes Act.

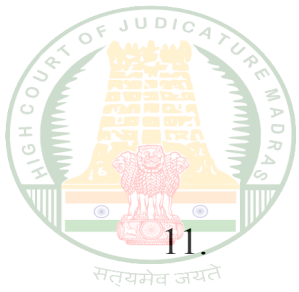


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In such circumstances, invoking Article 226 of Constitution of India and filing the writ petition which is not maintainable. On 11-08-2014 after hearing of both side arguments the Hon'ble High Court was pleased to dispose off the said writ petition with a direction to the petitioner to approach the Labour Court through by way of filing Industrial Dispute within a period of 15 days from the date of receipt of the order.”

10. In the counter affidavit filed in the present writ petition dated 18.03.2024, the 1st respondent sought to justify his decision to invoke the provisions of the Industrial Disputes Act. His explanation is set out in paragraph 7, which reads as follows:—

“The 1st Respondent would submit that to ventilate his grievances, the 1st Respondent has got 2 forums, one under the Tamil Nadu Co-operative Societies Act, 1983 and yet an another available under the Industrial Disputes act, 1947 though an observation was made in W.P.No.29147/2012 by its order dated 12.08.2014 would not be a fetter to invoke the concurrent jurisdiction available in the Industrial Disputes Act, 1947 as the dismissal order dated 05.08.2002, the 1st Respondent was removed from service, such removal is illegal and it is an Industrial Dispute which needs adjudication as per section 2A of Industrial Disputes Act, 1947. Hence, ID No.315/2014 came to be filed since the Hon'ble High Court has condoned the latches of delay on the part of the petitioner which cannot be considered in the present Writ Petition since the matter is already heard and decided in W.P.No.29147/2012 by its order dated 12.08.2014 by a quorum of Single Judge which cannot be rewritten in the Present Writ Petition.”



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11.

As a matter of fact, the 1st respondent directly filed a claim statement

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before the Labour Court under Section 2A(2) of the Industrial Disputes Act, without first approaching the Conciliation Officer, as mandated under the said provision. Under the statutory scheme, a claim statement before the Labour Court can be entertained only upon the failure of conciliation proceedings conducted by the jurisdictional Conciliation Officer and based on a failure report issued by him. There is nothing in this Court's order dated 12.08.2014 that authorised the 1st respondent to bypass this requirement and proceed directly before the Labour Court. Nevertheless, the 1st respondent filed his claim statement on 26.08.2014—just 14 days after the disposal of the earlier writ petition—indicating a clear misunderstanding on his part as to the scope and effect of this Court's order.

12.

The Labour Court, in the impugned award, accepted this position without proper scrutiny and recorded the following observation in paragraph No.13:—

“While the petitioner filed a Writ Petition before the Hon'ble High Court and got order to approach the tribunal on 11.08.2014. The petition is filed before the Court on 26.08.2014. Therefore the question of limitation is diluted because the petition filed an application before the respondents which were negatived. Lastly he filed the Writ Petition before



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the Hon'ble High Court and the Hon'ble High Court directed the petitioner to approach the tribunal. By the effect, the petitioner presented the petition from the date of order of dismissal within 3 months. So the question of limitation is diluted by the proceedings.”

13. It is relevant to note that, following the rejection of his appeal by the appellate authority, the 1st respondent preferred a revision petition dated 30.01.2010 before the Revisional Authority. The said revision was rejected by the Director of Handlooms through a letter bearing reference No. Na.Ka.41008/2009/H3, dated 06.06.2011. In the said order, the following was observed:—

“பார்வையில் காணும் தங்களது சீராய்வு மனு பரிசீலிக்கப்பட்டது. தாங்கள் 05.08.2002-ல் பணியிறவு செய்யப்பட்டு (Dismissal from Service) தங்களுக்கு வழங்கப்பட்ட தண்டனை தொடர்பாக 30.07.2008-ல் மேல்முறையீடு செய்யப்பட்டு மேற்படி மேல்முறையீடு 06.01.2009-ல் நிராகரிக்கப்பட்டுள்ளது. தங்களால் 09.12.2009-ல் சமர்ப்பிக்கப்பட்ட சீராய்வு மனு உரிய முறையில் இல்லாததால் திருப்பப்பட்டு மீண்டும் 30.01.2010-ல் சமர்ப்பிக்கப்பட்டுள்ளது. 05.06.2002-ல் பணி நீக்கம் செய்யப்பட்டதற்கு 5 வருடங்கள் கழித்து மேல்முறையீடு செய்தும் 06.01.2009-ல் மேல்முறையீடு நிராகரிக்கப்பட்ட நிலையில் 09.12.2009-ல் முழுமையற்ற சீராய்வு மனு சமர்ப்பிக்கப்பட்டுள்ளது. எனவே, உரிய காலத்தில் சீராய்வு விண்ணப்பம் சமர்ப்பிக்காமல் காலதாமதமாக சமர்ப்பித்ததற்காக தங்களது சீராய்வு மனு நிராகரிக்கப்படுகிறது.”

14. It is pertinent to note that it was against the aforesaid order that the



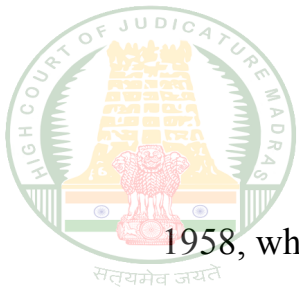
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first respondent filed W.P. No. 29147 of 2012, seeking to quash the rejection of

his revision and for a direction to reinstate him in service. However, while disposing of the writ petition by order dated 12.08.2014 (which has been erroneously referred to as 11.08.2014 by both the 1st respondent and the Labour Court), the learned Judge directed the 1st respondent to file an appeal before the Co-operative Tribunal and granted relief with respect to limitation. Despite this, the first respondent chose to disregard the Court's direction and proceeded directly before the Labour Court, in clear contravention of the statutory mandate under Section 2A(2) of the Industrial Disputes Act. Notably, Section 2A(2), as introduced by the Tamil Nadu Amendment Act 5 of 1988 with effect from 01.11.1988, reads as follows:—

“Where no settlement is arrived at in the course of any conciliation proceeding taken under this Act in regard to an industrial dispute referred to in sub-section (1), the aggrieved individual workman may apply in the prescribed manner, to the Labour Court for adjudication of such dispute and the Labour Court shall proceed to adjudicate such dispute, as if such dispute has been referred to it for adjudication and accordingly all the provisions of this Act relating to adjudication of industrial disputes of the Labour Court shall apply to such adjudication.”

15. Pursuant to the aforesaid amendment, the Government of Tamil Nadu incorporated Rule 25B into the Tamil Nadu Industrial Disputes Rules,



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1958, which reads as follows:—

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“25-B. Application to Labour Court by workmen. -- (1) Where no settlement is arrived at in the course of any conciliation proceeding taken in the case of an industrial dispute referred to in sub-section (1) of section 2-A, the Conciliation Officer shall send an intimation to the aggrieved workman with a copy marked to the employer, the Commissioner and Secretary to Government, Labour and Employment Department, Madras-9 and to the Commissioner of Labour, Madras-6.

(2) On receipt of such intimation, the aggrieved individual workman may apply in Form C-1 to the Labour Court having jurisdiction over the area for adjudication of such dispute. Such application shall be in duplicate and filed before the Labour Court, either personally or by registered post. A copy of the intimation received from the Conciliation Officer under sub-rule (1) shall be filed along with the application.”

16. Therefore, for an individual workman to invoke Section 2A(2) of the Industrial Disputes Act in respect of a dispute relating to non-employment, it is a sine qua non that he first approach the Conciliation Officer. Only upon the failure of conciliation and the issuance of a failure report by the said officer can a claim statement be validly filed before the jurisdictional Labour Court. In the present case, the Labour Court, in the impugned award, failed to consider this mandatory requirement and did not insist on the production of a failure report before numbering the claim statement dated 26.08.2014 filed by the 1st



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respondent. Instead, the Labour Court appears to have been swayed by the 1st

respondent's self-serving assertion that this Court had granted him liberty to approach the Labour Court. Significantly, the Labour Court did not even examine the order of this Court that was produced and marked as Ex.W30.

17. The first and foremost question that arises is whether, after having exhausted the remedy of revision under Section 153 of the Tamil Nadu Co-operative Societies Act, 1983, an individual can subsequently invoke the jurisdiction of the Labour Court under Section 2A(2) of the Industrial Disputes Act. This issue is no longer res integra. A Division Bench of this Hon'ble Court, in **P. Eswaramoorthy v. R.J.B. Leoraj**, reported in 2008 (3) LLN 244 = 2008 (3) LLJ 694 (DB), has authoritatively answered this very question.

Speaking for the Bench, Justice K. Chandru held as follows:—

“(a) Section 90 of the 1983 Act providing for settlement of disputes will not include a dispute between a servant of a Co-operative Society and its Management. Therefore, no dispute can be referred to the Registrar or his nominee under Section 90 and consequently, no appeal will lie to the Tribunal under Section 152.

(b) Section 153 of 1983 Act is a departure from Section 97 of the 1961 Act and it is wider in nature. Power has been specifically conferred on the revisional authority under Section 153 to call for and examine the record of any proceeding under the Act or the Rules or the bye-laws of any officer subordinate to the Registrar or of the Board of Director or any officer of a registered society or of the



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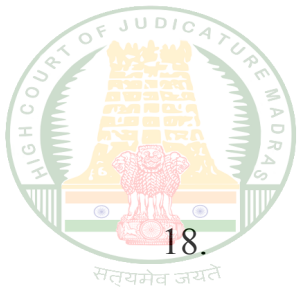
competent authority constituted under Section 75(3) of the 1983 Act.

Therefore, the employees of a Co-operative Society can approach the Registrar or any competent authority under Section 153 to revise any order passed by the Co-operative Society relating to disciplinary action taken against him or denial of promotion or wrong fixation of seniority, etc.

(c) There is no implied ouster of the jurisdiction of the power of the Labour Court / Industrial Tribunal to deal with similar matters if disputes are raised before them by workmen or employees covered by those provisions. Both remedies are available.

(d) The decision in Somasundaram v. Liyakat Ali [1997 (1) CTC 4 = 1998 (2) LLJ 719] may not be a good law. The employees therein filed a Civil Suit regarding promotion issue. As remedy for the aggrieved parties in that case are available either under Section 153 or by an industrial dispute under Section 2(k) of the Industrial Disputes Act, 1947, they could not have gone before the Civil Court. Therefore, the bar under Section 156 of the Co-operative Societies Act as well as the implied ouster of jurisdiction of the Civil Court by the provisions of the I.D. Act will directly apply and the suit is barred.

(e) The decision of P. Sathasivam, J. (as he then was) in K. Radhakrishnan v. Additional Registrar [2000 (ii) CTC 147] upholding the right of revision under Section 153 has laid the correct position of law. Likewise, the judgment of P.Sathasivam, J. (as he then was) in The Management of Madras Atomic Power Project Employees' Consumers (Co-operative Stores Limited, Kalpakkam rep. by its Special Officer v. The Deputy Commissioner of Labour (Appeal) Madras 6 and 2 others [2000 (III) CTC 738 = 2000 (2) LLJ 1451] holding that Section 90 of the 1983 Act is not available for employees of Co-operative Societies against the orders of termination has been correctly decided.”



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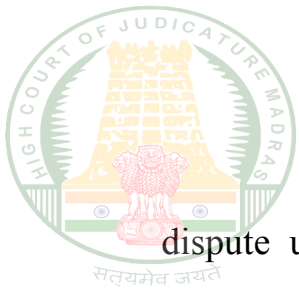
18.

Anticipating that the aforesaid Division Bench decision might

operate against him, learned counsel for the first respondent sought to rely on the judgment of T.S. Sivagnanam, J. (as he then was) in **K. Sathyamurthy & Another v. Joint Registrar of Co-operative Societies & Another**, reported in 2013 (1) CWC 856 = 2013 (2) LLJ 663, wherein reference was made to and reliance placed upon the earlier Division Bench decision. However, the said judgment does not support the case of the 1st respondent. In that case, the employee concerned had been permitted by this Court to file a revision under Section 153 of the Tamil Nadu Co-operative Societies Act with a relaxation of the limitation period. The revisional authority decided in favour of the employee. Thereafter, the society raised an objection regarding the maintainability of a revision under Section 153 in relation to service disputes of an employee of a co-operative society. This Court rejected that objection, following the ratio laid down by the Division Bench, and held that both forums were available.

19.

When the Court held that both forums are available to a workman, it meant that an employee has the option to either file a revision under Section 153 of the Tamil Nadu Co-operative Societies Act, 1983, or raise an industrial



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dispute under Section 2A(2) of the Industrial Disputes Act, 1947. In such circumstances, the choice of forum lies with the employee. However, once an employee elects a particular forum and exhausts the remedy available therein, it is not open to him to subsequently approach the alternate forum on the same cause of action. Both the Division Bench and the learned Single Judge merely held that the two remedies are available as alternatives—they did not hold that both remedies could be pursued consecutively, one after the other.

20. Even this issue has been considered and answered by another learned Judge of this Court in the decision rendered in **The Management, Virudhunagar District Consumers Co-operative Wholesale Stores Limited v. The Presiding Officer, Labour Court, Madurai & Another** in W.P.(MD) Nos. 6787 and 11406 of 2015, dated 27.02.2018. In that case, G.R. Swaminathan, J., held as follows:—

“3. The Hon'ble Division Bench of this Court in the decision reported in 2008 (6) C.T.C. 770 (P.Eswaramoorthy V. R.J.B.Leoraj) held that the employees of a Co-operative Society can approach the Registrar or any competent authority under Section 153 to revise any order passed by the Co-operative Society relating to disciplinary action taken against him. It was further held that there is no implied ouster of the jurisdiction of the power of the Labour Court/Industrial Tribunal to deal with similar matters, if the disputes are raised before them by



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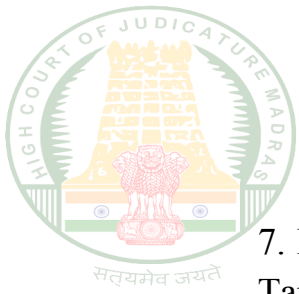
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workmen or employees covered by these provisions. It was held that both the remedies are available.

4. Now the question is whether the employee could have invoked the jurisdiction of the Labour Court, after her Revision petition was dismissed by the Joint Registrar. This Court is of the view that the doctrine of election is applicable in this case. It was open to the employee to either move the Labour Court questioning the termination or move the revisional authority. The employee chose to move the revisional authority under Section 153 of the Tamil Nadu Co-operative Societies Act, 1983. Having done so, it is not open to the employee to retrace her steps and knock the doors of the Labour Court. This is because, the order of termination passed by the Management of the Society got merged with the order passed by the revisional authority.

5. A mere look at the cause title of the I.D., would show that it was only the Management of the Society that was before the Labour Court. In the very nature of things, the order passed by the revisional authority in terms of the power conferred on him under Section 153 of the Act could not have been questioned before the Labour Court.

6. Section 156 of the Tamil Nadu Co-operative Societies Act, 1983, states that notwithstanding anything contained in any other law for the time being in force, no order or award passed, decision or action taken or direction issued under this Act by an arbitrator, a liquidator, the Registrar or an officer authorised or empowered by him, the Tribunal or the Government or any officer subordinate to them, shall be liable to be called in question in any Court. The expression “any Court” would include the Labour Court also. The Tamil Nadu Act 30 of 1983 received the assent of the President on 15th July, 1983. Therefore, the provisions of Industrial Disputes Act, 1947, obviously cannot prevail over Section 156 of the Tamil Nadu Co-operative Societies Act, 1983.



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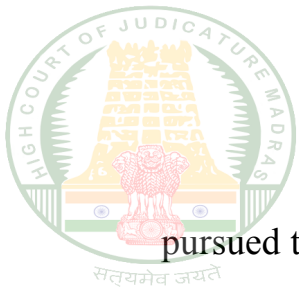
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7. In view of the bar of jurisdiction set out in Section 156 of the Tamil Nadu Co-operative Societies Act, 1983, the matter could not have been agitated by the delinquent before the Labour Court. The Labour Court did not have the jurisdiction to entertain the claim.

8. In this view of the matter, the impugned award of the Labour Court is set aside.”

21. In the aforesaid case, as observed by the learned Judge, the only party arrayed before the Labour Court was the Management of the Co-operative Society. In contrast, the 1st respondent in I.D. No. 315 of 2014 had impleaded four respondents, including the State of Tamil Nadu, the Managing Director of the Tamil Nadu Handloom Weavers Co-operative Society Ltd. (the 1st writ petitioner), the Special Officer of the said Society (who is also the employer of the first respondent), and the Regional Manager of the Society (the 2nd writ petitioner). In his claim statement filed before the Labour Court, the 1st respondent not only sought to set aside the dismissal order dated 05.08.2002, but also challenged the appellate order dated 06.01.2009 and the revisional order dated 06.06.2011.

22. It is unclear how the Labour Court could have granted relief against the statutory orders passed by the revisional authority. Had the 1st respondent



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pursued the remedy before the Co-operative Tribunal, as directed by the learned

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Judge and as conceded by the writ petitioners, any adverse outcome could have been challenged in accordance with the procedure established by law. However, the 1st respondent could not, on his own volition, bypass the mandatory conciliation process and directly approach the Labour Court to obtain an award in his favour, and thereafter seek to justify such a course of action before this Court.

23. The writ petitioners must bear primary responsibility for the present state of affairs, having failed to effectively present their case before the Labour Court. Despite having taken a categorical stand in the earlier writ proceedings that no appeal lies to the Co-operative Tribunal, it remains unclear how they later came to concede such a remedy, particularly when no such appellate provision exists under the statutory scheme.

24. Faced with these difficulties, learned counsel for the 1st respondent sought to rely on another Division Bench decision, where the issue of alternative remedies was considered in the context of the Payment of Gratuity Act and the Industrial Disputes Act. The reference was to the judgment in **K. Ramasami v. The Managing Director (Previously The Special Officer)**, 21/24



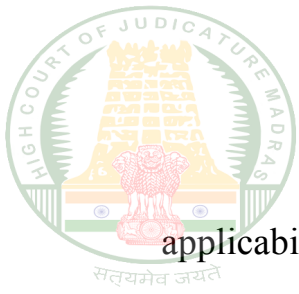
W.P.No.2443 of 2020

Vellore District Central Co-operative Bank Ltd. & Others in W.A. No.

WEB COPY 1947 of 2021 and batch of connected appeals, dated 21.02.2023. Speaking for the Bench, S. Vaidyanathan, J. (as he then was), observed in paragraph 10 as follows:—

“10. As discussed supra, we are of the view that in the light of the decision of the Hon'ble Supreme Court reported in 1991 (1) LLJ 111, when there are two forums open to the employees, rejecting them or directing them to approach the authority under the Tamil Nadu Co-operative Societies Act, 1983, cannot be correct. In the present cases on hand as the relief sought is for a differential amount based on a settlement, they can approach the Labour Court as there is no time limit for an employee to get the issue redressed under Section 33 (C) (2) of the Industrial Disputes Act, 1947. If there is any dispute, the employee will have to raise the dispute with the help of the Act and if there is any pre-existing right as claimed by the workman, an application under Section 33(C) (2) of the Industrial Disputes Act is maintainable. The Supreme Court has categorically held that the remedy under the Payment of Gratuity Act alone can be availed if the employees restricted claiming gratuity payable under the Payment of Gratuity Act. When the claim is based on a settlement, Allahabad Bank case will apply and the issue with regard to the interpretation of Section 4(5) of the Payment of Gratuity Act has not been considered.”

25. It is unclear how the above extracted passage lends any support to the case of the 1st respondent. On the contrary, the essence of the decision is that the Payment of Gratuity Act, being a special statute governing matters relating to gratuity and providing a specific forum for redressal, excludes the



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applicability of the general provisions for recovery available under the
Industrial Disputes Act.

26. In view of the finding that the dispute raised by the first respondent is not maintainable before the Labour Court and that the resultant award is rendered invalid, this Court refrains from examining the other issues on merits. Accordingly, W.P. No. 2443 of 2020 stands allowed. Consequently, W.M.P. No. 2840 of 2020 is dismissed as infructuous. There shall, however, be no order as to costs.

23.04.2025

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NCC : Yes / No

Index : Yes / No

Internet : Yes / No

To

The Presiding Officer,
Principal Labour Court,
Chennai – 600 104.



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W.P.No.2443 of 2020

DR. A.D. MARIA CLETE, J

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W.P.No.2443 of 2020
and
W.M.P. No. 2840 of 2020

23.04.2025