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W.P.No.9070 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :01.07.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.9070 of 2024

V. Padma

... Petitioner

VS-

1.

The Management

Vellore District Consumer Co-operative Wholesale Stores,

No. 32, Anna Salai,

Vellore – 632 001.

...Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the concerned records from the Principal Labour Court, Vellore dated 24.01.2024 in C.P.No.94 of 2015, quash the order of the Principal Labour Court, Vellore dated 24.01.2024 in C.P.No.94 of 2015 as illegal, arbitrary and contrary to law and consequently direct the respondent to pay a sum of Rs.4,44,359.80 towards back wages and other monetary benefits payable to the petitioner along with interest at the rate of 9% per annum.

For Petitioner : Mr. Balan Haridas

For Respondent : Mr. Balaramesh

ORDER

The above writ petition is filed for the following relief:



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“To issue a Writ of Certiorarified Mandamus to call for the records from the Principal Labour Court, Vellore dated 24.01.2024 in C.P.No.94 of 2015 and quash the same as illegal, arbitrary and contrary to law and consequently direct the respondent to pay a sum of Rs.4,44,359.80 towards back wages and other monetary benefits payable to the petitioner along with interest at the rate of 9% per annum.”

2. The short facts are as follows:

(i) The petitioner was working as a clerk in the respondent-Store and was suspended from service on 21.08.2000. She was issued with a Charge Memo on 10.04.2001 for which an explanation was given on 30.05.2001 denying the charges. Thereafter, the petitioner would submit that a farce of an enquiry was conducted and she was dismissed from service, by order dated 12.01.2004.

(ii) Challenging the dismissal, the petitioner had preferred an appeal under Section 41(2) of the Tamil Nadu Shops and Establishments



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Act. The Special Deputy Commissioner of Labour by order dated 26.12.2006 was pleased to set aside the order of dismissal. Despite the order, the petitioner was not reinstated in service. On 23.06.2007, she had addressed a letter to the respondent stating that the order does not speak about payment of wages from the date of dismissal till reinstatement, as result of which she was unable to claim damages.

(iii) Thereafter, the petitioner was reinstated and she came to learn that the order of reinstatement by itself implied continuity of service and therefore, she would be entitled to all benefits during the period of non-employment. The petitioner thereafter made representations for payment of wages from 21.08.2000 till the date of reinstatement i.e 23.06.2007. There was no reply to the same. Therefore, she had filed C.P.No.94 of 2015 claiming back wages and other benefits totalling a sum of Rs.4,44,359.80. The said claim petition was allowed by order dated 30.09.2016. Challenging the same, the Management had filed W.P.No.187 of 2017. The Writ Petition was allowed by order dated 14.07.2023 and the matter was remitted back to the Principal Labour Court to consider the issue afresh. On the matter being remanded, the



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Labour Court, by order dated 24.01.2024, dismissed the claim petition.

Challenging the same, the petitioner has filed the above Writ Petition.

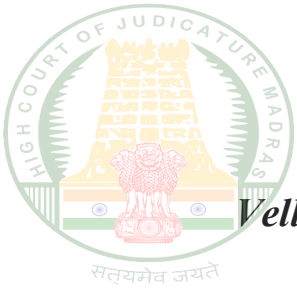
3. The reasons for the dismissal of the claim petition were as follows:

a) That the petitioner has not filed the 12(3) settlement based on which the claim petition was filed.

b) Though the order of dismissal was quashed, there was no specific direction for payment of back wages and other monetary benefits.

c) That the petitioner had given a letter stating that she would not claim back wages for the period of non-employment and that the said period would be treated as leave without wages.

4. Mr.Balan Haridas, learned counsel for the petitioner has brought to the notice of this Court the judgment of this Court in ***W.P.No.7131 of 2015 [A.Rajamani Vs The Principal Labour Court,***



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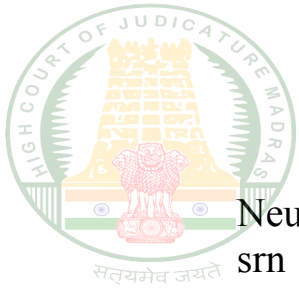
Vellore District] where the petitioner therein, an employee of the respondent-Cooperative Stores had also been suspended. That was also a case where the claim petition was dismissed. The learned single Judge had allowed the writ petition and set aside the order passed in the claim petition. This order was confirmed by the Hon'ble Division Bench of this Court in W.A.No.3319 of 2024 wherein it was held that once the shops authority has exercised its power and reinstated the employee, it is presumed that the employee has been in continuous service. Therefore, there is no question of treating the period of absence due to the order of dismissal as leave on loss of pay. These orders would apply on all fours to the facts of the present case.

5. Therefore, this Writ Petition is allowed and the order passed by the Principal Labour Court, Vellore in C.P.No.94 of 2015 is set aside. The respondent is directed to pay the back wages of Rs.4,44,359.80 and other monetary benefits payable to the petitioner for the said period within a period of one month from the date of receipt of a copy of this order. No costs.

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Index: Yes/No
Speaking order/non-speaking order

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Neutral Citation: Yes/No
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To,

The Principal Labour Court, Vellore



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P.T.ASHA, J.,

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