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W.P.No.27052 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.07.2025

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.27052 of 2025
and WMP.Nos.30352 & 30353 of 2025

The Salem District Co-operative Milk
Producer's Union Limited
Rep by its General Manager
Thalavaipatti Post
Salem - 636 007.

... Petitioner

Vs

1. M.Durai

2.The Management

S.627, Salem Milk Consumer Co-Society Ltd.,
Represented by its President, P.Murugan
4th Cross, Maravaneri
Salem - 636 007.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records pertaining to proceedings in Award dated 30.04.2003 passed in I.D.No.164 of 2001 and passed by the learned Labour Court, Salem and quash the same.



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For Petitioner : Mr.V.Ragupathi

ORDER

The writ petition is filed for the following relief :

" To issue a Writ of Certiorari calling for the records pertaining to proceedings in Award dated 30.04.2003 passed in I.D.No.164 of 2001 and passed by the learned Labour Court, Salem and quash the same."

2. The brief facts are as follows :

- a) The first respondent was working as driver in the second respondent-Society. He continuously remained absent from work, and hence, he was removed from services. The removal was challenged by the first respondent in I.D.No.164 of 2001 before the Labour Court, Salem. The second respondent-Management remained exparte in ID proceedings and an award came to be passed by the Labour Court on 30.04.2003, directing reinstatement of first respondent with continuity of service, backwages and other attendant benefits.



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- b) Thereafter, the first respondent filed a claim petition in C.P.No.372/2005 under Section 33C(2) of the Industrial Disputes Act, to compute the money value of Rs.2,69,400/- towards backwages, bonus, leave salary for the period 01.01.2000 to 30.04.2003, together with interest and costs. Once again, the second respondent remained exparte and the claim petition was allowed on 27.12.2005, directing the second respondent to pay the aforesaid sum with 6% interest per annum.
- c) Since the amounts were not paid to the first respondent, he filed an Execution Petition in REP.29/2015 in I.D.No.164 of 2001, seeking arrest of second respondent-Society, and to execute the award. This petition was allowed on 10.03.2016. It is only after the execution petition was ordered, the second respondent had filed REA.No.22/2016, seeking to set aside the exparte order in REP.No.29/2015. This application in REA.No.22/2016 was dismissed on 24.07.2017.
- d) Challenging the orders passed in REP.No.29/2015 and REA.No.22/2016, the second respondent has preferred W.P.No.26772 of 2017 and W.P.No.26773 of 2017 before this



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Court. Meanwhile, the second respondent Society had merged with the petitioner-Union herein. Therefore, the petitioner-Union was *suo-motu* impleaded as party respondent in the above writ petitions on 07.12.2022. Both the writ petitions were dismissed by this Court by an order dated 21.08.2023.

- e) It is the contention of the petitioner-Union that without considering whether the petitioner-Union was liable to pay the awarded amount, which was passed prior to its merger with the second respondent-Society, the liability was shifted on to the petitioner herein. Thereafter, the petitioner had filed a writ appeal challenging the orders in W.P.No.26772 of 2017 and W.P.No.26773 of 2017 and the same is pending.
- f) The petitioner-Union would allege that due to administrative delay, the petitioner was not in a position to challenge the exparte award dated 30.04.2003 passed in I.D.No.164 of 2001 by the Labour Court, Salem, and that the said delay was neither willful nor wanton. The petitioner would further contend that they are not liable to pay the award amount, since the award came to be passed on 30.04.2003, which was prior to its merger with the second



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respondent-Society. Further, by oversight, his counsel had challenged both the awards passed in I.D.No.164 of 2001 and C.P.No.372/2005 in a single writ petition before this Court in W.P.No.21780 of 2025, which later was withdrawn on 20.06.2025 with liberty to file two separate writ petitions challenging the said award / order.

Therefore, the petitioner has now filed the present writ petition seeking to quash the award dated 30.04.2003 passed in I.D. No.164 of 2001.

3. The petitioner would challenge the award passed in I.D.No.164 of 2001 on the ground that the first respondent/workman had continuously surrendered his earn leave and medical leave in full and thereafter, he had been absent for over 60 days, for which, he has not submitted any leave application along with medical certificates. Its further contention is that the petitioner-Union was not liable to comply with the award and orders passed in I.D.No.164 of 2001 and C.P.No.372/20 since its merger with the second respondent-Society has not been published in gazette and the merger has not come into effect since then.



4. Heard the learned counsel appearing for the petitioner.

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5. Admittedly, the second respondent-Society has not contested any of the proceedings starting from I.D petition, computation petition and the execution petition in REP.No.29/2015. It is only when the order of arrest has been ordered in REP.No.29/2015, the second respondent had woken up to file a petition in REA.No.22 of 2016. This application in REA.No.22/2016 was filed under Section 47 of the Civil Procedure Code, on the ground that a decree had been obtained against the second respondent, a corporate body and not against an individual. Therefore, the execution petition filed seeking arrest of the President of second respondent-Society, is not maintainable, as there was no decree against the President of the second respondent-Society. Even at this juncture, neither the second respondent nor the petitioner herein had deemed it fit to take out an application to set aside the exparte order passed in I.D.No.164 of 2001 or in C.P.No.372/2005. Further, the petitioner-herein had been impleaded as party respondent only in W.P.Nos.26772 and 26773 of 2017, which was filed by the second respondent challenging the orders passed in REP.No.29/2015 in I.D.No.164/2001 and REA.No.22/2016 in



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REP.No.29/2015. These writ petitions were dismissed by this Court on 21.08.2023, with liberty being granted to the petitioner herein or the second respondent to deposit the award amount within a period of four weeks from the date of receipt of a copy of the order, if it is not already deposited. The learned Judge of this Court has proceeded to dismiss the said writ petitions on the ground that the second respondent herein (petitioner in W.P.Nos.26772 and 26773 of 2017) had not challenged the award passed in I.D.No.164 of 2001 or the consequential order passed in C.P.No.372/2005.

6. After having moved all these applications, and nearly after 22 years of passing the award in I.D.No.164 of 2001, the petitioner-Union have moved the present writ petition seeking to quash and set aside the award in I.D.No.164 of 2001, with a only reason that there was an administrative delay. This reason does not appear to be a sufficient cause to consider the present writ petition filed by the petitioner for quashing the award in I.D.No.164 of 2001, more particularly, when the second respondent had challenged the order of arrest passed against the President of the Society in REA.No.22/2016, which is of the year 2016.



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7. In the result, the writ petition is dismissed. No costs.

Consequently, connected writ petitions are closed.

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Index : Yes / No

Neutral Citation : Yes / No
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P.T. ASHA, J.

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