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W.P.No.28982 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **04.08.2025**

CORAM

THE HONOURABLE MR.JUSTICE **P.DHANABAL**

W.P.No.28982 of 2023

and

WMP.No.28552 of 2023

D.D.9 Uthankarai Agricultural Producers

Co-operative Marketing Society,

represented by its President

.... Petitioner

Vs

T.Theethan

.... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, to call for the records relating to the order dated 31.05.2023 made in C.P.No.9 of 2022 passed by the Presiding Officer, Labour Court, Hosur, quash the same and consequently forbear the respondent from claiming the amount from the petitioner.



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For Petitioner : Mr.M.Ilansezhiyan

WEB COPY For Respondent :Mr.J.Manikandan

ORDER

This Writ Petition has been filed to quash the order passed by the Presiding Officer, Labour Court, Hosur in C.P.No.9 of 2022 dated 31.05.2023, wherein the respondent herein has filed petition for computation of the amount and the Labour Court computed the amount from January 2015 to September 2018 and directed to pay a sum of Rs.5,19,534/- including the leave salary, bonus, security deposit and interest for the security deposit. Aggrieved by the said order, the present writ petition has been filed by the Society.

2. The learned counsel for the petitioner would submit that the respondent was appointed as internal auditor on 12.08.1989 and thereafter he was posted as Cashier in the petitioner society. During his tenure the respondent was involved in misconduct and thereby charges were framed against him on 15.11.2017 by the Managing Director of the Society. Apart from that, a criminal case was also registered against the



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medical leave and was not allowed to rejoin duty, however, the respondent not even produced any document to that effect. Since the respondent attained the age of superannuation, the petitioner permitted him to retire from service with effect from 30.09.2018 subject to the departmental enquiry pending against him.

2.2. After hearing both sides, the Labour Court passed an award dated 31.05.2023 by directing the writ petitioner to pay a sum of Rs.5,19,534/- with interest at the rate of 9%. This petition itself is not maintainable as the Labour Court has no jurisdiction to adjudicate the disputed facts under Section 33(c)(2) of ID Act. Since the disciplinary proceedings are pending against the respondent, he is not entitled to the claim amount. The respondent caused huge loss to the petitioner society to the tune of Rs.2,67,396/- and the unauthorized absence of the respondent was not entered into the service register of the respondent, but without considering the same the Labour Court computed the amount. The criminal Court also released the respondent on probation under section 4(1) of Probation of Offenders Act. Therefore, the respondent is liable to pay the amount misappropriated by him.



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Therefore, the award passed by the Labour Court by directing the petitioner to pay the computed amount of Rs.5,19,534/- is liable to be quashed. Moreover already the respondent has filed writ petition in W.P.No.6368 of 2022 and the amount was settled to him under the Payment of Gratuity Act. Therefore, the order passed by the Labour Court is liable to be quashed.

3. The leaned counsel for the respondent would submit that the petitioner failed to pay the difference amount from January 2015 to September 2018 and also not paid the leave salary, bonus, security deposit and interest for the security deposit and thereby he approached the Labour Court by way of computation petition. No disciplinary proceedings were initiated against the petitioner and no any punishment awarded to the respondent through the disciplinary proceedings. The petitioner in the attendance register noted as the respondent was suspended in the month of November 2017 but infact the respondent was on duty and signed as respondent was present. Since the petitioner taken stand that the respondent was suspended he already filed petition before the authority under the Tamil Nadu Payment of Subsistence Allowances



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Act and the same was dismissed by observing that the respondent was not suspended. Once the respondent was not suspended, he is entitled to pay for that period. Therefore, the Labour Court correctly computed the amount. As far as gratuity is concerned, the respondent filed a separate petition before the authority concerned and as per the order passed by this Court in W.P.No.6368 of 2022, the petitioner was directed to pay a sum of Rs.5,50,990/-, to the petitioner, for payment of gratuity amount. Therefore, that amount is no way connected with this writ petition. Therefore, the Labour Court passed a reasoned order and the writ petition is liable to be dismissed.

4. This Court heard both sides and perused the records.

5. In this case, according to the petitioner, the respondent was suspended for some period and no records produced by him and they categorically admitted before the authority under the Tamil Nadu Payment of Subsistence Allowances Act that the respondent was not suspended. However, the petitioner pleaded that the respondent was on medical leave for some period and thereafter his leave was extended. To



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that effect also no any records produced by the petitioner and the petitioner allowed the respondent to retire from service on superannuation, subject to outcome of the result of disciplinary proceedings. No records were produced by the petitioner about the disciplinary proceedings initiated against the respondent and as to any punishment was awarded to the respondent based on the disciplinary proceedings. Therefore, the Labour Court has passed order after recording the reasons and computed the amount from January 2015 to September 2018. Even in the counter filed before the Labour Court, the petitioner has not stated about the disciplinary proceedings, only they mentioned about the initiation of the disciplinary proceedings and thereafter no any records produced about the result of the disciplinary proceedings. Mere issuing of charge memo alone is not sufficient to stop the retirement benefits. Without any punishment the petitioner cannot withhold the retirement benefits of the respondent. Therefore, the Labour Court correctly computed the amount and came to a fair conclusion and the same does not warrant interference.



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6. In view of the aforesaid discussions, this Court is of the opinion that this Writ Petition has no merits and deserves to be dismissed. Accordingly, this Writ Petition is dismissed. No costs. Consequently connected miscellaneous petition is closed.

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Index : Yes/No
Neutral citation : Yes/No
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To

The Presiding Officer, Labour Court, Hosur.



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P.DHANABAL,J.

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