



W.P.No.30791 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2025

CORAM

THE HONOURABLE MR.JUSTICE P.DHANABAL

W.P.No.30791 of 2023
and WMP.No.30467 of 2023

Management represented by
S.Rajarithnam

.... Petitioner

Vs

A.Ravichandran

.... Respondent

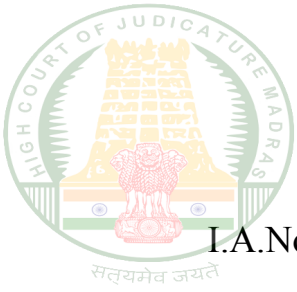
PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorari, to call for the records in I.D.No.20 of 2018 and I.A.No.44 of 2018 on the file of the Labour Court Cuddalore and quash the same.

For Petitioner : Mr.V.K.Sathiamurthy

For Respondent :Mr.R.Karunakaran

ORDER

This Writ Petition has been filed to quash the order passed by the Labour Court, Cuddalore in I.D.No.20 of 2018 dated 27.07.2023, wherein the respondent herein raised an Industrial Dispute in I.D.No.20 of 2018. While the case was pending, the petitioner herein filed an



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I.A.No.44 of 2018 to decide whether the in-charge Secretary comes under the purview of 2(s) of Industrial Dispute Act (hereinafter referred to as 'ID Act') as a workman and the same was dismissed. Aggrieved by the said order, the present writ petition has been filed.

2. The learned counsel for the petitioner would submit that the respondent, an employee in the petitioner's society, was appointed as secretary in-charge. His duties included supervising subordinates and checking and maintaining the society's accounts. While so, for the period from 01.04.2014 to 31.03.2015 a sum of Rs.12,04,417.60 was misappropriated. The respondent was suspended on 23.04.2015 and a charge memo was subsequently issued on 10.08.2015. The society initiated proceedings under section 81 of Co-operative Societies Act. In the enquiry report, the misappropriation of the funds were came to light and thereafter section 87 proceedings were initiated under the Co-operative Societies Act to recover the said amount. The enquiry officer submitted a report, and based on the domestic enquiry report, the charges against the respondent were proved. Consequently, petitioner's society issued a dismissal order to the respondent on 02.01.2016. Apart



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from that, a criminal case, in Crime No.9 of 2015, was registered under section 120(B), 408, 468 and 477(a) of IPC and now it is pending in C.C.No.144 of 2016 before the Judicial Magistrate-I, Villupuram. Already, the 2nd respondent filed a writ petition in W.P.No.1785 of 2016 before this Court, which was dismissed on 21.09.2017. Subsequently, the respondent raised an Industrial Dispute before the Labour Court in I.D.No.20 of 2018. Thereafter, the petitioner filed a petition in I.A.No.44 of 2018 to decide whether the in-charge Secretary comes under the purview of the Labour Court or not. The Labour Court dismissed the petition holding that the respondent drew a clerk's salary and was only an in-charge, and therefore, could not be treated as a Secretary. The aforesaid findings of the Labour Court are erroneous and thus, the order passed by the Labour Court is liable to be quashed.

3. The learned counsel for the respondent would submit that the respondent joined the petitioner's society as a salesman on 07.10.1987. In the year 1992, he was promoted to clerk Grade-III. Subsequently, on 5.7.2012, he was given the additional charge of in-charge of secretary, for which, he did not receive extra remuneration, continuing to draw a



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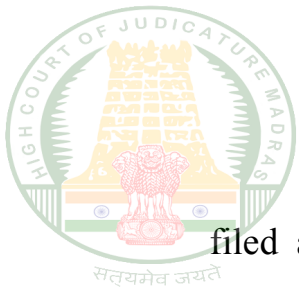
clerk's salary. The petitioner suspended the respondent on 23.04.2015,

alleging charges against him. A charge memo was issued on 10.08.2015.

He also gave his explanation, but it was not accepted. Disciplinary proceedings were conducted and thereafter he was removed from service based on the enquiry findings. The respondent challenged the same before Labour Court in I.D.No.20 of 2018. while this main industrial dispute is pending, the petitioner herein filed an application to decide whether the respondent, holding the additional charge of Secretary, comes under the purview of definition of workman as defined under section 2(s) of the ID Act. The Labour Court, after hearing both sides, dismissed the petition, holding that the respondent was only in-charge of the secretary and his post was clerk and he was drawing clerk's salary. Therefore, the Labour Court passed a reasoned order, and the present writ petition is liable to be dismissed.

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

5. This petition is challenging the order passed by the Labour Court in I.A.No.44 of 2018 in I.D.No.20 of 2018. In that case, the respondent herein raised an Industrial Dispute before the Labour Court, Cuddalore. The petitioner, as the respondent in the Industrial Dispute,

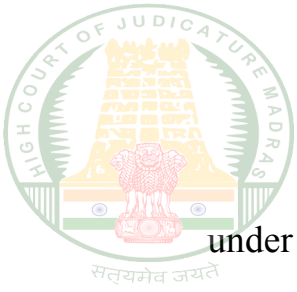


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filed an application to decide whether the respondent by holding the position of in-charge Secretary of the society, comes under the definition of workman as per section 2(s) of the ID Act. The Labour Court came to a conclusion that the respondent was originally working as a clerk and drew a clerk's salary. Since he was only given an additional charge as in-charge Secretary, he cannot be considered as Secretary. Before the Labour Court, the petitioner examined one witness and marked 8 documents.

6. This Court has also perused the entire records. On perusal, it is seen that the respondent was employed only as a clerk, drawing a clerk's salary and also held the additional charge of Secretary.

7. At this juncture it is relevant to refer the judgment of this Court in W.A.No.244 of 2000 dated 02.03.2010, in the case of “Management, Sri Vaikundam Co-operative Bank Ltd., Srivaikundam, Chidambaramanar District by the Special Officer, A.Mathar Sulaiman Vs. Labour Court, Tirunelveli, Tirunelveli District and another, wherein this Court held that incidental work cannot convert the employee as a supervisory in character and found that the 2nd respondent would come



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under the purview of workman to raise an Industrial Dispute. Therefore, when a clerk is in-charge of a secretary position, it does not convert the clerk into a supervisory in character and he would come under the purview of a workman to raise an industrial dispute. In the case on hand, the petitioner also admitted that he was only in-charge of the Secretary post, but his actual post was clerk. Therefore, the Labour Court findings are in accordance with law and there is no illegality or perversity in the order passed by the Labour Court, and it does not warrant any interference.

8. In view of the afore said discussions, this Court is of the opinion that this writ petition has no merits and deserves to be 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
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The Management,
T.N.S.T.C (Salem) Ltd,
Dharmapuri Division,
Bharathipuram,
Dharmapuri-5



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P.DHANABAL,J.

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