



W.P.No.25702 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2025

CORAM :

THE HONOURABLE MR. JUSTICE **M.DHANDAPANI**

W.P.No.25702 of 2018

T.Mohanambal

...Petitioner

Vs.

The Management,
Coimbatore Electricity System
Employees Cooperative Thrift and
Credit Society Ltd., C.C.No.2394,
Tatabad, Coimbatore.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the Award dated 28.05.2018 made in I.D.No.251 of 2010 passed by the Additional Labour Court, Coimbatore, quash the same and consequently direct the 1st respondent to reinstate the petitioner in service with effect from 10.09.2009 along with back wages and all other attendant benefits.

For Petitioner : Mr.N.Manokaran

For Respondent : Mr.M.S.Palaniswamy



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ORDER

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This Writ Petition has been filed seeking quashment of the Award dated 28.05.2018 made in I.D.No.251 of 2010 on the file of the Additional Labour Court, Coimbatore and to consequently direct the 1st respondent to reinstate the petitioner in service with effect from 10.09.2009 along with back wages and all other attendant benefits.

2. It is the case of the petitioner that, she joined the services of the 1st respondent society as Assistant in the year 1995 and was subsequently promoted to the post of Clerk. Whiles, alleging dereliction of duty, the 1st respondent terminated the services of the petitioner, vide order dated 10.09.2009. Aggrieved by the same, the petitioner initiated conciliation proceedings, however, as the same ended in failure, the petitioner raised an industrial dispute in I.D.No.251 of 2010 before the Additional Labour Court, Coimbatore, who in turn, vide preliminary award, while held that the dispute is maintainable and that the enquiry has not been conducted in a fair and proper manner, however, subsequently dismissed the said dispute, vide its award dated 28.05.2018. Challenging the same, the petitioner has come up with this Writ petition.



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3. Learned counsel for the petitioner submitted that, though the labour court, by way of preliminary award held that the enquiry was not conducted in a fair and proper manner and had given fresh opportunity to the management to prove the charges against the petitioner, however, the labour court, subsequently dismissed the dispute raised by the petitioner contrary to the decision of the Hon'ble Apex Court in the case of ***Karnataka State Road Transport Corporation Vs. Lakshmiddevamma (Smt) and another*** reported in ***(2001) 5 Supreme Court Cases 433***, which is wholly unsustainable and the same has to necessarily be set aside.

4. Per contra, the learned counsel appearing on behalf of the respondent submitted that, for the misconduct committed by the petitioner by colluding with the Secretary, the petitioner was terminated from service, after conducting enquiry by following the due process of law. Aggrieved by the same, the petitioner filed a review petition before the Joint Registrar of Co-operative Societies Act u/s 153 of the Tamilnadu Cooperative Societies Act and the same was dismissed by



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order dated 18.03.2010. While so, without challenging the said dismissal order, the petitioner raised an industrial dispute u/s. 2A(2) of the Industrial Disputes Act in I.D.No.251 of 2010, which is nothing but forum shopping committed by the petitioner. The Labour court, after careful consideration of all the above said facts dismissed the said dispute vide impugned order, which is perfectly in order and the same does not warrant interference of this Court. Accordingly, he prayed for dismissal of this Writ petition.

5. Heard learned counsel on either side and perused the materials available on record.

6. The issue to be decided in the present Writ petition is whether the petitioner is entitled to raise a dispute by invoking the provisions under the ID Act without exhausting the appeal remedy available under the Tamil Nadu Co-operative Societies Act.

7. Admittedly, for alleged misconduct committed by the petitioner, departmental proceedings were initiated as against the petitioner and she



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was subsequently terminated from service and as against the said termination order, the petitioner filed a review before the Joint Registrar and the same was dismissed by order dated 18.03.2010. It is equally not in dispute that, the said order of dismissal was not put in challenge by the petitioner. Instead, the petitioner approached the Labour Court u/s. 2A(2) of the ID Act by way of filing the present dispute in I.D.No.251 of 2010, which was dismissed by the labour court, vide award dated 28.05.2018, assailing which, the petitioner has come up with this Writ petition.

8. Once the authority under the Tamil Nadu Co-operative Societies Act had upheld the order of dismissal passed by the respondent management as against the petitioner/workman for the misconduct committed by her by dismissing the review filed by her, the course open to the petitioner is to avail the appellate remedy available under the Tamil Nadu Co-operative Societies Act. However, without resorting to the said remedy, the petitioner has approached the Labour Court by raising an industrial dispute, which is impermissible, as the very same issue, which has already been agitated before another forum cannot be



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reagitated in the form of an industrial dispute as the said act is nothing
WEB.COM but an act of *res judicata*.

9. Though the Labour Court has passed the award dismissing the industrial dispute raised by the petitioner and declining the relief of reinstatement, however, it is to be pointed out that when the case has been filed before an authority in respect of an order passed under a particular provision of law, which provides for an appellate remedy, the Labour Court ought to have directed the petitioner to approach the appellate authority under the Tamil Nadu Co-operative Societies Act. However, curiously without doing so, the Labour Court has entertained the dispute and passed an order, though against the petitioner. The said procedure adopted is *per se* unsustainable and unreasonable. Hence, the order passed by the Labour Court deserves to be set aside with liberty to the petitioner to avail the appellate remedy against the order of the Joint Registrar under the Tamil Nadu Co-operative Societies Act.

10. In view of the above, the impugned award dated 28.05.2018 made in I.D.No.251 of 2010 is set aside and the order dated 18.03.2010



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passed by the Joint Registrar upholding the order of termination dated 10.09.2009 passed as against the petitioner survives. The petitioner is granted liberty to workout the appellate remedy in the manner known to law, by challenging the order of the Joint Registrar dated 18.03.2010 before the appellate authority. The period during which the Writ petition was pending before this Court as well as before the wrong forum shall stand excluded for the purpose of calculation of period of limitation for the purpose of filing the appeal, if any.

11. Accordingly, this Writ petition stands allowed to the limited extent as indicated above with the aforesaid observations and directions.
No costs.

18.02.2025

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Index	: Yes / No
Speaking order	: Yes / No
NCC	: Yes / No

To

The Additional Labour Court,
Coimbatore.



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M.DHANDAPANI, J.

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