



W.P.No.34144 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.04.2025

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.34144 of 2018

And

W.M.P.No.39679 of 2018

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The Management of
K-445, Kothamangalam Primary
Agricultural Co-operative Credit Society Ltd.,
rep. by its Administrator
Kothamangalam & Post – 638 451
Sathyamangalam Taluk,
Erode District.

(Cause title amended vide order
dt.29/11/23 made in WMP.32502/23 in
W.P.34144/18 by RHJ)

... Petitioner

Vs.

A.Rajinamary

... Respondent

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records relating to the award passed in Industrial Dispute No.170 of 2010 dated 12.01.2017 on the file of Labour Court, Salem and quash the same.

For Petitioner : Mr.S.Kamadevan
For Respondent : Mr.S.Umapathi



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ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Certiorari calling for the records relating to the award passed in Industrial Dispute No.170 of 2010 dated 12.01.2017 on the file of Labour Court, Salem and quash the same.

2.The learned counsel appearing for the petitioner submitted that the respondent was an employee of the petitioner society and she committed mis-appropriation of the amount, thereby disciplinary proceedings was initiated against her and the same ended in dismissal and aggrieved by the same, the respondent raised Industrial Dispute No.170 of 2010 and the Labour Court passed the impugned award directing the petitioner to reinstate the respondent in service with continuity of service, 25% backwages and other benefits.

3.The learned counsel appearing for the petitioner further submitted that for the very same offence, the respondent was convicted for the offence punishable under Sections 408, 477-A, 468, 471 of IPC but let off on Probation of Offenders Act in C.C.No.97 of 2005 on the file of the learned Judicial Magistrate No.4, Coimbatore on



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payment of fine amount of Rs.1,000/- on 15.04.2016 and hence the impugned award ordering reinstatement is not sustainable one. The learned counsel further submitted that though the pendency of the case in C.C.No.97 of 2005 was brought to the notice of the Labour Court, the order was not produced before the Labour Court.

4.Per contra, the learned counsel appearing for the respondent submitted that once a person is released under the Probation of Offenders Act, it is not conviction in the eye of law and the person is entitled for reinstatement and hence, the impugned order warrants no interference. In support of his contentions, the learned counsel relied upon the decision of this Court reported in **2000 (IV) CTC 409 [P.Subramanian Vs. Joint Registrar of Co-operative Societies]**.

5.Heard the learned counsel appearing for the petitioner as well as the learned counsel appearing for the respondent and perused the materials available on record.

6.The facts of the case is not in dispute. Admittedly, the respondent was an employee of the petitioner society and she



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committed mis-appropriation of the amount, thereby disciplinary proceedings was initiated against her and the same ended in dismissal and aggrieved by the same, the respondent raised Industrial Dispute No.170 of 2010 and the Labour Court passed the impugned award.

7.Perusal of records disclose that for the commission of offence, the respondent was convicted for the offence punishable under Sections 408, 477-A, 468, 471 of IPC and let off on Probation of Offenders Act in C.C.No.97 of 2005 on the file of the learned Judicial Magistrate No.4, Coimbatore on payment of fine amount of Rs.1,000/- on 15.04.2016.

8.The decision relied upon by the learned counsel appearing for the respondent is not applicable to this case since the conviction of the employee in the said case was subsequently set aside and thereafter reinstatement was ordered, whereas, in the present case, the conviction of the respondent was not set aside. Unless conviction is set aside, the person cannot be reinstated. Hence, the impugned award is liable to be set aside.



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9.The writ petition is allowed. The award passed in Industrial

Dispute No.170 of 2010 dated 12.01.2017 by the Labour Court, Salem

is set aside. No costs. Consequently, connected miscellaneous petition is closed.

08.04.2025

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Index: Yes/ No

Speaking Order: Yes/ No

NCC: Yes/ No

To

1.The Labour Court,
Salem.



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M.DHANDAPANI,J.
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