



W.P(MD)No.13891 of 2019 and 18491 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.10.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)Nos.13891 of 2019 and 18491 of 2023 and
WMP(MD)Nos.14279 and 14282 of 2025

in WP(MD)No.13891 of 2019

Y-92, Manavalakurichy Primary Agricultural
Co-Operative Credit Society,
Rep by its President,
Manavalakuruchi Post,
Kalkulam (TK),
Kanyakumari District.

... Petitioner

Vs

R.Maheswari

...Respondent

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari to call for the records of the Labour Court, Tirunelveli in award passed in ID.No.57 of 2014 dated 29.09.2015 and quash the same.

For Petitioner : Mr. Jerin Mathew

For Respondents : Mrs. N. Sundari



W.P(MD)No.13891 of 2019 and 18491 of 2023

in WP(MD)No.18491 of 2023

Y-92, Manavalakurichy Primary Agricultural
Co-Operative Credit Society,
Rep by its President

... Petitioner

Vs

R.Maheswari

...Respondent

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari to call for the records of the Labour Court, Tirunelveli in award passed in CP.No.42 of 2018 dated 06.07.2023 and quash the same.

For Petitioner : Mr. Jerin Mathew

For Respondents : Mrs. N. Sundari

ORDER

These writ petitions are filed by the petitioner society as against the award passed by the Labour Court in ID.No.57 of 2014 dated 29.09.2015 and the order dated 06.07.2023 passed in claim petition in CP.No.42 of 2018.

2.The case of the respondent is that she was engaged by the petitioner society as a Sales Woman in the year 1997 and she was made



permanent on 08.01.2008. She was subsequently promoted as Clerk.

She went on medical leave from 03.06.2013 to 03.10.2013. After medical leave she reported for duty on 04.10.2013. However she was not permitted to join duty. Therefore the respondent raised an industrial dispute before the Labour Court in ID.No.57 of 2014. The Labour Court found that the petitioner society had terminated the respondent orally without conducting any enquiry and therefore, ordered for reinstatement as Clerk with back wages.

3.The respondent also claims that she filed a claim petition before the Labour Court under Section 33(c) (2) of the Industrial Disputes Act seeking a direction to petitioner society to pay the balance salary, leave salary and gratuity together with interest. The claim petition was partly allowed with a direction to the society to pay the arrears of salary from 03.06.2013 to till her reinstatement with interest.

4.Since both writ petitions are arising out of the dispute between the petitioner society and the respondent employee, these writ petitions are taken up together and disposed of by this common order.



5.The learned counsel for the petitioner society submits that services of the respondent employee was not regularised. As per the decision of the Hon'ble Full Bench of this Court R. Radhakrishnan v. Deputy Registrar of Cooperative Society, Dindigul reported in 2007 (5) CTC 369 the employees of the Co-Operative Societies can be regularised only in the sanctioned posts, however the post of Clerk is not a sanctioned post in the petitioner society. Without considering the same and also without ascertaining whether the petitioner was regularised or not, the Labour Court allowed the industrial dispute in an erroneous manner.

6.He further submits that any appointment in the Co-Operative Society is governed by Rule 149 of the Tamil Nadu Co-Operative Societies Rules and this alleged appointment is made without following the said statutory rule and therefore, this has to be treated as a back door entry. The respondent is not entitled for any relief. The Labour Court has exceeded its jurisdiction by directing the Co-Operative society to reinstate the respondent in the post of Clerk.

7.When these writ petitions were taken up for hearing in the earlier occasions there was no representation for the respondent. Therefore, this



court appointed a Legal Aid Counsel to represent the respondent.

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8.The learned Legal Aid Counsel appearing for the respondent submits that the respondent was engaged by the petitioner society on 11.07.1994 as a Sales Woman and her services were regularised on 11.08.2008. Thereafter she was promoted as Clerk with effect from 30.05.2013. While so the respondent fell ill in the month of June 2013 and therefore, she applied for medical leave. However, her medical leave was not considered and she had not been permitted to join duty on 04.10.2013. Therefore, the respondent raised an industrial dispute. The learned counsel by referring to the counter affidavit filed by the management before the Labour Court submits that the management had admitted in their counter affidavit that the respondent was regularised with effect from 01.08.2008, she was promoted as Clerk and she was also paid time scale of pay. While so the management in order to defeat the claim of the respondent, did not permit her to join duty.

9.The learned counsel has also relied on the documents in Ex.M12, Ex.M 15, Ex.W 23 and Ex.W24 and submits that these documents, which were marked before the Labour Court establish that the respondent was regularised, provided with time scale of pay and also promoted as Clerk.



Therefore, the writ petitioner is not justified in taking a plea that the services of the respondent was not regularised.

10.The learned counsel has also relied on Exs.W.5,6 and 8 and submits that the respondent applied for medical leave along with medical records, however the same was refused by the management without any valid reasons. The respondent was terminated illegally without conducting any enquiry. After raising the industrial dispute the charge memo was issued, however they did not proceed with the charge memo by conducting any enquiry. Therefore, the Labour Court rightly passed the award in the industrial dispute. The learned counsel in support of her contention has relied on the order of this court in R.Varalakshmi Vs The Presiding Officer, Labour Court, Pudhucherry [WP(MD)No.16121 of 2013, dated 28.02.2022]

11.This Court considered the rival submissions made and perused the materials placed on record.

12.The main contention of the petitioner society is that the respondent workman is not a permanent employee of the society and when there is no vacancy, if any appointment is made, it has to be treated



as illegal appointment as per Rule 149 of the Tamil Nadu Co-Operative Society Rules. However in the counter affidavit filed by the management before the Labour Court a specific stand was taken that the services of the respondent was regularised, she was provided with time scale of pay and she was promoted as Clerk. In view of the specific stand taken by the management before the Labour Court, this court is not inclined to interfere with the findings of the Labour Court.

13.The learned counsel for the petitioner submits that the petitioner society is in financial constraints and proposal has been made for liquidation of the society. Considering the present status of the society, this court modifies the award as that of a compensation instead of back wages and reinstatement. The compensation shall be 50% of the award amount, which has already been deposited by the petitioner society before the Labour Court. The respondent is entitled to withdraw the amount deposited by the petitioner society before the Labour in the Industrial Dispute.

14.This court places its appreciation to the learned Legal Aid Counsel for effectively defending the case on behalf of the respondent. The Legal Services Authority is directed to pay a sum of Rs.10,000/- to the learned Legal Aid Counsel for each writ petition.



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15.In the result, these writ petitions are partly allowed. No costs.

Consequently connected miscellaneous petitions are closed.

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13.10.2025

DSK

To

The Presiding Officer,
Labour Court, Tirunelveli.



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B.PUGALENDHI, J.

DSK

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