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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-10-2026

CORAM

THE HON'BLE MR JUSTICE C. SARAVANAN

WP No. 23059 of 2025
and WMP.No.25905 of 2025

CNR: {HCMA011310742025}

The Management
Rep. By Administrator, C2551 Puducpettai
Primary Agricultural Co-operative, Credit Society
Ltd., Pudupettai Village And Post, Tirupattur
Vattam, Vellore District-635 651.

..Petitioner(s)

Vs

1. S.Raja (deceased) S/o. Somundi Alias Chinna Kulandai, R. Geetha W/o. Raja
   No.2/34, Kalluyuraan Vattam, Agrakaram Post,
   Natrampalli Taluk, Vellore District-635 651.
2. R. Praveenhmeri
   W/o. Raja, No.2/34, Kalluyuraan Vattam,
   Agrakaram Post, Natrampalli Taluk, Vellore
   District-635 651.

3. R. Pradeepkumar
   S/o. Raja, No.2/34, Kalluyuraan Vattam,
   Agrakaram Post, Natrampalli Taluk, Vellore
   District-635 651.

4. R. Divha
   D/o. Raja, No.2/34, Kalluyuraan Vattam,
   Agrakaram Post, Natrampalli Taluk, Vellore
   District-635 651.

5. S. Rathinammal,
   M/o. Raja, No.2/34, Kalluyuraan Vattam,
   Agrakaram Post, Natrampalli Taluk, Vellore
   District-635 651.

..Respondent(s)

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Prayer: Writ petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari to call for the entire records relating to the impugned order dated 25.02.2025 passed in C.P. No.7/2020 on the file of Additional Labour Court at Vellore and Quash the same.

For Petitioner(s): Mr.P.S.Sivashanmugasundaram

For Respondent(s): Mr.T.Karkivelan
FOR R1 TO R5

ORDER

The present writ petition has been filed for issuance of a writ of Certiorari to call for the entire records relating to the impugned order dated 25.02.2025 passed in C.P. No.7/2020 on the file of Additional Labour Court at Vellore and to quash the same.

2. The Management of the Co-operative Credit Society is before this Court against the impugned order passed by the Labour Court in C.P.No.7 of 2023 dated 25.02.2025 whereby the computation petition filed by the deceased employee namely S.Raja has been allowed posthumously i.e., after his death.

3. The Labour Court has allowed C.P.No.7 of 2023 and held that the respondent Society was liable to pay the wages to the 1st petitioner therein on the pay scale of Junior Assistant from the date of his promotion i.e., on

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01.11.2019 till the date of termination on 31.05.2023. It has been further held that the 1st petitioner therein was also entitled for the difference in subsistence allowance that was already paid to him. Finally, the petitioner Society was also directed to disburse the amount to the legal heirs of the deceased 1st respondent within a period of three months from the date of this order, failing which they were entitled to claim interest amount at the rate of 12% per annum from the date of the filing of the petition i.e., on 30.01.2023 till its realisation.

4. The fact on record reveal that the deceased employee namely S.Raja was appointed as a Salesman on 12.03.1990. A resolution is said to have been passed on 31.10.2019 wherein a decision was taken to promote the deceased employee as a Junior Assistant which is a promotional post in the petitioner Co-operative Society. Around the same time, a Charge Memo was issued and domestic enquiry was conducted and thereafter the deceased was dismissed from service on 31.05.2023.

5. As far as the order of dismissal is concerned, it has attained finality as no challenge was made to the same by the deceased employee during his life time. During the interregnum, after the dismissal from service, the deceased employee filed a computation petition under Section 33 C (2) of the Industrial Disputes Act, 1947 for computation of the amount due to him, as according to the deceased employee he was promoted as a Junior Assistant with effect from

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01.11.2019, pursuant to a resolution passed by the members of the Elected Board of the petitioner Cooperative Society.

6. During the pendency of the computation petition before the labour Court, the said employee had died. The challenge to the impugned order is on the strength of the decision of the Hon'ble Supreme Court in the case of ***Municipal Corporation of Delhi Vs Ganesh Razak and another*** reported in (1995) 1 SCC 255. A reference is made to paragraph no.8 from the said decision.

> "***8. Reference may be made first to the Constitution Bench decision in Central Bank of India Ltd., Vs P.S.Rajagopalan on which Shri Rao placed heavy reliance. That was a case in which the question of maintainability of proceedings under Section 33-C(2) of the Act was considered in a claim made by the workmen on the basis of the Sastry Award. The employer disputed the claim of the workmen on several grounds including the applicability of Section 33-C(2) of the Act. It was urged that since the applications involved a question of interpretation of the Sastry Award, they were outside the purview of Section 33-C(2) because interpretation of awards or settlements has been expressly provided for by Section 36-A. This objection was rejected. This Court pointed out the difference in the scope of Section 36-A and Section 33-C(2) indicating that the distinction lies in the fact that Section 36-A is not concerned with the implementation or execution of the award whereas that is the sole purpose of Section 33-C(2); and whereas Section 33-C(2) deals with cases of implementation of individual rights of workmen falling under its provisions, Section 36-A deals***

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merely with a question of interpretation of the award where a dispute arises in that behalf between the workmen and the employer and the appropriate Government is satisfied that the dispute deserves to be resolved by reference under Section 36-A. In this context, this Court also indicated that the power of the Labour Court in a proceeding under Section 33-C(2) being akin to that of the Executing Court, the Labour Court is competent to interpret the award or settlement on which a workman bases his claim under Section 33-C (2), like the power of the Executing Court to interpret the decree for the purpose of execution".

7. It is submitted that the Management has not admitted the deceased employee was promoted as a Junior Assistant with effect from 01.11.2019 pursuant to the resolution of the Board on 31.10.2019. It is submitted that the resolution should have been followed with an order of the President of the Society and issuance of a promotion order.

8. The learned counsel for the petitioner submitted that Ex.P1 dated 01.11.2019 filed by the deceased in the course of the proceedings before the Labour Court was not that of the petitioner and therefore the conclusion arrived in the computation order in C.P.No.7 of 2023 was liable to be interfered with.

9. On the other hand, the learned counsel for the respondent drew attention of this Court to the following para from the impugned order dated 25.02.2025 in C.P.No.7 of 2023.

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" ***Further the respondent society has not taken any steps to deny the contents of Ex.P1 and not chosen to examine the signatory of Ex.P1 to disprove the same***".

10. It is submitted that although the petitioner Society had objected to Ex.P1 dated 01.11.2019, the same has not been seriously contested by choosing to examine the author of Ex.P1 to disprove its authenticity. That apart it is submitted that one Mr.Palani was working as a Senior Clerk in the petitioner Society was promoted and since the deceased employee namely S.Raja possessed necessary qualification to be promoted as a clerk, a resolution was passed on 31.10.2019 pursuant to which Ex.P1 dated 01.11.2019 was issued to promote him as a Junior Assistant.

11. It is further submitted that one Field Officer by name Shanmugam had instructed the President not to disburse the salary of the clerk due to personal enmity between them and that the said Shanmugam has continuously acted in an inimical way and that prior to the said incident the said Shanmugam had also ordered to reduce the monthly wages of the deceased from April 2018 onwards. It is further submitted that the deceased had raised his objection, however the President of the Society refused to act against the order of the Field Officer Shanmugam and thus his salary was not paid and hence C.P.No.54 of 2018 was filed before the Labour Court.

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12. Having considered the submissions made by the learned counsel for the petitioner and the learned counsel for the respondent, I now proceed to dispose of this writ petition.

13. The fact that the deceased was dismissed from service on 31.05.2023 is not in dispute. The fact that a resolution was passed on 31.10.2019 to promote the deceased as Junior Assistant is also not in dispute. The only dispute is with reference to the promotion/appointment order dated 01.11.2019 in Ex.P1. The petitioner has however not challenged the same in the manner known to law. It was incumbent on the part of the petitioner Society to have either proved that the said document was forged or fabricated.

14. The labour Court thus was entitled to draw presumption in terms of Section 114 of the Evidence Act, 1872 as per which the Court may presume the existence of any fact which it thinks likely to have happened regard being had to the common course of natural events, human public and private business, in their relation to the facts of the particular case. As per illustration (e) to Section 114 of the Indian Evidence Act, the Court is entitled to draw a presumption that official acts have been regularly performed. The order of the Labour Court also specifically records that the petitioner Society has not taken any steps to deny the content of Ex.P1 nor chosen to examine the signatory of Ex.P1 to disprove the same.

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15. The labour Court or the Tribunal under the provisions of the Industrial Dispute Act is the ultimate fact finding authority. The finding of fact rendered by the Tribunal or the Labour Court cannot be tested, unless there is perversity flowing from such finding. In this case, the order of the labour Court does not suffer from any perversity or infirmity to render the impugned order of the labour Court susceptible to a valid challenge. That apart, the scope of judicial review under Article 226 of the constitution in any event is confined to decision making process and not to the decision. The argument that the labour Court cannot determine whether the deceased employee was employed as a "Salesman" or a "Junior Assistant" on the date of dismissal cannot be accepted.

16. In case the contention of the petitioner was that the deceased was working as a Salesman and dismissed as Salesman, the petitioner should have produced the records such as charge memo and the dismissal order before the Labour Court and it is for the Labour Court to test the correctness of Ex.P1 appointment order dated 01.11.2019 purportedly issued pursuant to the resolution passed on 31.10.2019. Exhibits which were produced by the petitioner between R1 to R4 by themselves do not inspire any confidence that the deceased employee was only a salesman ever since his appointment in the year 1990.

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17. Therefore, there is no merits in this writ petition. It is liable to be dismissed. It is accordingly dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

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Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
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C.SARAVANAN, J.

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