

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 31.03.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice J.A.K.SAMPATHKUMAR

Writ Appeal No.368 of 2004
& WAMP No.639 of 2004

and

Writ Petition No.17360 of 2004
& WPMP No.20614 of 2004

W.A. No.368 of 2004:-

Kalavai Primary Agricultural
Co-operative Bank Ltd.,
Agaram Road, Kalavai Post,
Arcot Taluk, Vellore Dist.
rep. by its Special Officer. Appellant

vs.

1. The Presiding Officer,
Labour Court,
Vellore.

2. R.Ramachandran ... Respondents

W.P. No.17360 of 2004:-

Management,
T.Sholavaram Primary
Agricultural Cooperative Bank Ltd.,
T.Sholvaram (PO),
Vellore (Tk) & (Dt). Petitioner

vs.

1. R.Ramachandran

2. Presiding Officer,
Labour court, Vellore.

... Respondents

W.A. No.368 of 2004:- Appeal under Clause 15 of the Letters Patent against the order passed by the learned single Judge (KGJ) in W.P. No.22775 of 2001 dated 20.03.2003.

W.P. No.17360 of 2004:- Petition under Article 226 of the Constitution of India for the issuance of a Writ of Certiorari to call for the records of the second respondent/Labour Court relating to its award dated 30.3.2004 in C.P. No.42 of 2002 and quash the same.

For Appellant in WA.368/04 : Mr.S.Ravichandran
For Petr. in WP.17360/2004 : Mr.P.Anbarasan
For R2 in (WA) & R1 in (WP): Mr.Ramachandran,
Party-in-person.

COMMON JUDGMENT

P.SATHASIVAM, J.

Writ Appeal No.368 of 2004 has been filed against the Common Order of the learned single Judge, dated 20.03.2003, made in W.P. Nos.22775 of 2001 etc., in and by which, the learned Judge confirmed the order of the Labour Court, granting relief in favour of the workmen under Section 33-C(2) of the Industrial Disputes Act, 1947 (I.D. Act).

W.P. No.17360 of 2004 is filed by the Management of T.Sholavaram Primary Agricultural Co-operative Bank Ltd., Vellore Taluk and District, wherein, the petitioner seeks to quash the award of the Labour Court dated 30.3.2004 in C.P. No.42 of 2002.

2. Since the issue relates to the validity of the order passed by the Labour Court in the Petitions filed under Section 33-C(2) of the I.D. Act, both the Writ Appeal and the Writ Petition are being disposed of by the following Common Judgment.

3. On behalf of the Workmen, their Representative by name R.Ramachandran - second respondent in the Writ Appeal and first respondent in the Writ Petition, approached the Labour Court, Vellore, by filing Petitions under Section 33-C(2) of the I.D. Act. The Labour Court accepted the claims of the Workmen and quantified the amount on the basis of the settlement, dated 11.3.1994, entered into under Section 12(3) of the I.D. Act. As against the order of the Labour Court, the aggrieved Banks filed Writ Petitions before this Court. By Common Order dated 20.3.2003, the learned single Judge, after accepting the stand taken by the Workmen, confirmed the order of the Labour Court and dismissed the Writ Petitions filed by the petitioners/Banks.

4. Against the Common Order in W.P. No.22775 of 2001, Kalavai Primary Agricultural Co-operative Bank Limited filed W.A. No.368 of 2004 and as against the award of the Labour Court, Vellore, dated 30.03.2004, in C.P. No.42 of 2002, T.Sholavaram Primary Agricultural Co-operative Bank Limited filed W.P. No.17360 of 2004.

5. Learned counsel appearing for the appellant mainly contended that the learned Judge, having failed to see that in order to maintain an Application under Section 33-C(2) of the I.D. Act, there must be a pre-determined right, erred in confirming the order of the Labour Court. He also contended that inasmuch as the Workman was not a party to the Settlement under Section 12(3) of the I.D. Act, the learned Judge erred in granting the relief.

6. On the other hand, one Mr.Ramachandran, representative of the Workmen, contended that the Labour Court is fully justified in granting the relief by quantifying the amount as per the settlement and that the learned single Judge has rightly dismissed the Writ Petitions, confirming the decision of the Labour Court; and prayed for dismissal of the Writ Appeal and the Writ Petition.

7. If we dismiss the Writ Appeal filed by the Bank, accepting the conclusion arrived at by the learned Judge, the Writ Petition filed by a similarly placed Co-operative Bank is also liable to be dismissed.

8. Before the Labour Court, a settlement reached under Section 12(3) of the I.D. Act, entered into between the Special Officer, Primary Agricultural Co-operative bank Limited and Kalavai & North Arcot District Primary Co-operative Employees Union, was marked as Ex.M.8. The Claim Petitions were filed before the Labour court on the basis of the above settlement. It is the case of the Workmen that wages have been determined for Salesmen under the above referred settlement and that the said wages have not been paid as determined in the Settlement but reduced wages were given to the salesmen, hence, they are entitled to the difference as claimed before the Labour Court under Section 33-C(2) of the I.D. Act. It is the stand of the Management/Bank that the settlement is not applicable to Village Shop Salesmen and that the settlement will not bind them. The Labour Court very much relied on the evidence of RW-1, examined on the side of the Bank, which shows that the Bank possessed powers of appointment and taking disciplinary action with respect to Village Shop Salesmen, who are the Applicants before the Labour Court. The Labour Court has also concluded that as per Ex.P-8 Settlement, the net wages of Village Shop Employees were agreed to be increased from R.600/- to Rs.750/- from 01.04.1994 onwards.

9. It is not in dispute that at the time of drafting the settlement, the Village Shop Salesmen were parties to the same. As rightly pointed out by the Labour Court, there is no reason to delete the clauses relating to Village Shop employees. On consideration of the oral and documentary evidence and all other materials placed, the Labour Court arrived at a factual conclusion that the settlement would bind the Village Shop Salesmen also. This factual finding was once again verified with reference to the materials placed and accepted by the learned single Judge. We also considered the relevant clauses and the materials placed before the Labour Court as well as the reasonings of the learned Judge. Though an argument was advanced that the Workmen are not entitled to approach the Labour Court by invoking the jurisdiction under Section 33-C(2) of the I.D. Act, in view of the factual conclusion arrived at by the Labour Court, which was confirmed by the learned single Judge, we reject the said contention raised by the appellant/bank.

10. The definite case of the Workmen that all the employees including Village Shop Employees joined together in bringing forth the settlement and that after obtaining the consent of the parties the clauses relating to Village Shop Salesmen were removed, was accepted by the Labour Court as well as the learned single Judge. Further, it is the specific conclusion of the Labour Court that evidence of the Labour Officer amply shows that the clauses relating to Village Shop Employees were struck off only after obtaining their consent. After analysing all the materials, the Labour Court rightly rejected the stand of the Management that the Salesmen strength refers to only one person, ie., Fertilizer Salesmen and not Village Shop Salesmen. On a careful perusal of the entire materials, we are in agreement with the said conclusion.

11. Though learned counsel appearing for the appellant/Bank relied on certain decisions in support of their stand, in view of the factual finding/conclusion of the Labour Court based on acceptable evidence, confirmed by the learned Judge, we are of the view that it is unnecessary to refer the same. In other words, when facts are abundantly clear, there is no need to go into the decisions.

12. In the light of what is stated above, we are in entire agreement with the conclusion arrived at by the learned Judge and we hold that there is no valid ground for interference. Accordingly, the Writ Appeal is liable to be dismissed. In view of the relief sought for in the Writ Petition by a similarly placed Bank, for the reasons stated above, the award of the Labour Court is to be confirmed and the Writ Petition is liable to be dismissed.

13. Net result, the Writ Appeal as well as the Writ Petition are dismissed. No costs. Connected Miscellaneous Petitions are also dismissed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

JI.

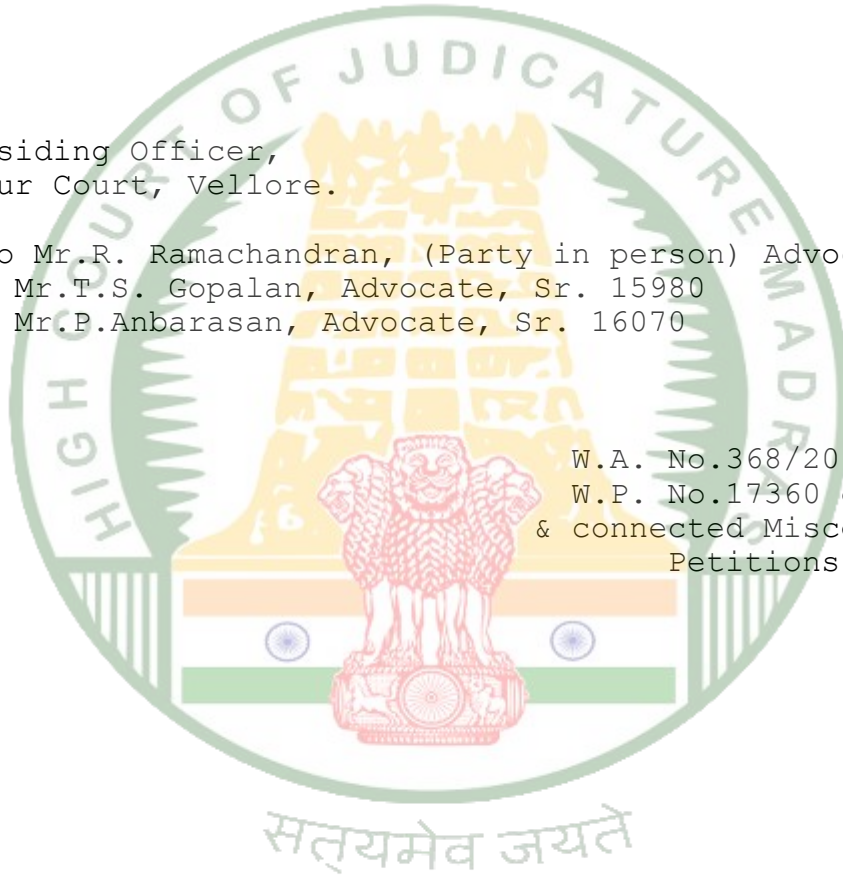
To

The Presiding Officer,
Labour Court, Vellore.

2 ccs to Mr.R. Ramachandran, (Party in person) Advocate, Sr.15773
1 cc to Mr.T.S. Gopalan, Advocate, Sr. 15980
1 cc to Mr.P.Anbarasan, Advocate, Sr. 16070

W.A. No.368/2004 and
W.P. No.17360 of 2004
& connected Miscellaneous
Petitions.

PV (CO)
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