

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2015

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE DR.JUSTICE P.DEVADASS

Writ Appeal No.1649/2015 & MP.No.1/2015

The Management of Mettur Thermal Power Station
Tamil Nadu Electricity Board, rep. By the
Superintending Engineer [P&A]
Mettur Dam-6. ... Appellant/Petitioner

vs.

- 1 The Central Organisation of
Tamil Nadu Electricity Employees
Mettur Dam.
- 2 The Presiding Officer
Labour Court, Coimbatore. ... Respondents/Respondent

The appeal is filed under Clause-15 of Letters Patent
Appeal against the orders dismissing the Writ Petition in
WP.No.18646/2006 dated 23.04.2010.

WP.NO.18646/2006: Preferred under Article 226 of the Constitution
of India praying for the issue a Writ of Certiorari Calling for
the records of the Second respondent Labour Court relating to
its award dated 20/9/2004 passed in ID.No.482/2000 and to quash
the same as illegal and without Jurisdiction.

For Appellant : Mr. P.R.Dhilipkumar

JUDGMENT

(Judgment of the Court was made by DR. P.DEVADASS, J.)

As only a short point is involved, we shall dispose of this
appeal today, at the admission stage itself.

2 This writ appeal arises out of the order of the Writ
court passed in WP.No.18646/2006 dated 23.04.2010, whereunder,
the Award of the Labour Court, Salem, passed in ID.No.482 of
2000 dated 20.09.2004, has been upheld.

3 As early as on 04.06.93, a Settlement between the 1st respondent/Labour Union representing the contract workers and the appellant/Management to provide appointment on compassionate ground to the dependants of the deceased contract workers who die in harness, has been arrived at. There are 17 such cases of death of contract labourers. In pursuance of the settlement, their dependants have sought for appointment on compassionate ground. It was denied by the Management.

4 Dispute was raised before the Conciliation Officer. It failed. Conciliation Failure Report was sent to the Government. The Government passed orders under section 10 of the Industrial Disputes Act, 1947, referring the issue whether those 17 persons can seek employment on compassionate ground in pursuance of the settlement.

5 The said reference was registered in ID.No.482/2000 by the Labour Court, Salem. The Union filed its Claim statement. The Management filed the counter. Documentary evidence has been let in by the Union. No oral evidence by both sides. And no evidence by the Management. The Labour Court, Salem, taking note of the fact that the labour and Management were parties to the Settlement, directed the Electricity Board/Management to act in pursuance of the Bi-party Settlement and appoint them on compassionate ground, either on contract basis or on permanent basis, however, as per rules. That was challenged by the Management before the Writ Court in WP.No.18646/2006. The Writ Court, referring to section 2[p] read with section 18[1] of the Industrial Disputes Act, 1947, affirmed the impugned Award of the Labour Court.

6 Aggrieved, the Management has directed this writ appeal.

7 Learned counsel for the appellant would contend that the impugned Award of the Labour Court as well the impugned order of the Writ Court overlooked the fact that the settlement in question, is not in conformity with the provisions of the Industrial Disputes Act, 1947, more particularly, section 18[1] of the Industrial Disputes Act, 1947.

8 We have anxiously considered the submissions of the learned counsel for the appellant, perused the Impugned Award of the Labour Court, the Impugned Order of the Writ Court and the materials on record.

9 On 04.06.1993, Ex.A.1-settlement has been arrived at between the appellant/Management and the 1st respondent/Union representing the contract Labourers. One of the clause in the settlement is that in case, a contract worker dies in harness,

his dependant shall be given appointment on compassionate ground. It is pertinent to note that to the said Ex.A.1-Settlement, the Management as well as the Labour Union were parties and both have signed also.

10 Looking at section 2[p] and section 18[1] of the Industrial Disputes Act, 1947, there are two kinds of settlements. One arrived at in the course of Conciliation. The Conciliation proceedings should be pending. In such cases, the binding nature of the Settlement will vary. The other one is a Settlement arrived at otherwise than in the course of conciliation. There need not be pendency of conciliation. A Settlement arrived at between the Management and the Labour Union at the negotiation table and signed by both, will come under the second category. It will come under a settlement contemplated under section 18[1] read with section 2[p] of the Industrial Disputes Act, 1947.

11 The settlement in question under which the respondents have sought for appointment on compassionate ground, falls under the second category. Under these circumstances, the Management cannot be permitted to resile from the settlement to which it was also a party and also a signatory. In such view of the matter, the Award of the Labour Court as well as the impugned order of the Writ Court are not flawed. They are in accordance with law. Thus, they need no interference.

12 In the result, this writ appeal fails and it is hereby dismissed. The Award of the Labour Court, Salem, passed in ID.No.482/2000 on 20.09.2004 and the Impugned Order of the Writ Court passed in WP.No.18646/2006 on 23.04.2010 are upheld. No costs. Consequently, the connected miscellaneous petition is also dismissed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1 The Superintending Engineer
Tamil Nadu Electricity Board,
Mettur Thermal Power Station,
Purchase & Administration,
Mettur Dam-6.

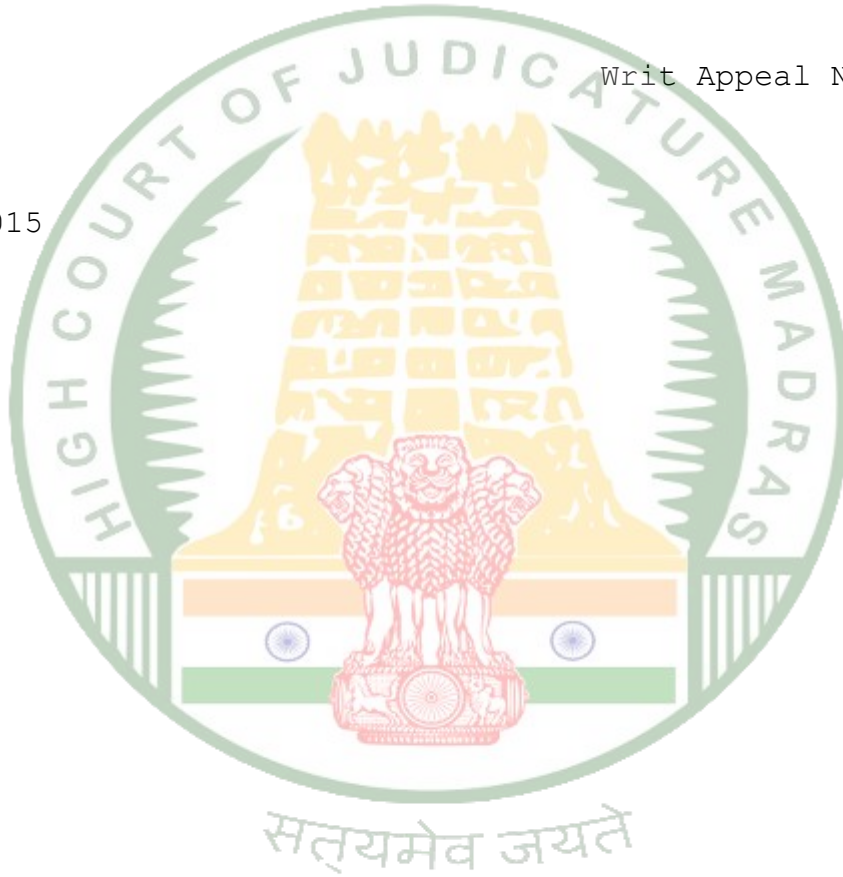
2 The Central Organisation of
Tamil Nadu Electricity Employees
CITU Office, Rajaganapathy Nagar,
Mettur Dam 636 401.

3 The Presiding Officer
Labour Court,
Salem.

+1 cc to Mr.P.R.DhilipKumar Advocate sr.64109

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