

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2015

CORAM:

The Honourable Mr.Justice K.K.SASIDHARAN

W.P.No.30935 of 2013

A.BHAGAVATHI PARAMASIVAM

... PETITIONER

-Vs.-

1. THE MANAGING DIRECTOR
TAMIL NADU WATER SUPPLY
AND DRAINAGE BOARD
31, KAMARAJAR SALAI
CHEPAUK, CHENNAI-600 005.
2. THE JOINT CHIEF ENGINEER
TAMIL NADU WATER SUPPLY AND
DRAINAGE BOARD
31, KAMARAJAR SALAI
CHEPAUK , CHENNAI-600 005.
3. THE CHIEF ENGINEER
TAMIL NADU WATER SUPPLY
AND DRAINAGE BOARD
MAATUTHAVANI , MADURAI.
4. THE SUPERINTENDING ENGINEER
TAMIL NADU WATER SUPPLY
AND DRAINAGE BOARD
MADURAI, THENI AND DINDUGAL CIRCLE
TWAD BOARD COMPLEX
MAATUTHAVANI
MADURAI.
5. THE EXECUTIVE ENGINEER
TAMIL NADU WATER SUPPLY
AND DRAINAGE BOARD
MAINTENANCE DIVISION
TWAD BOARD COMPLEX
MAATUTHAVANI
MADURAI.

6. THE ASSISTANT EXECUTIVE ENGINEER
TAMIL NADU WATER SUPPLY AND
DRAINAGE BOARD
MAINTENANCE SUB DIVISION
THIMMARASANAikanur.

...RESPONDENTS

Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the respondents to consider the claim of the petitioner on merits and to allow him to perform his duties without any hindrance within the time frame by granting all benefits of salary and other dues as applicable forthwith thereto.

For Petitioner: Mr.L. Chandrakumar
for M/s. Law Square

For Respondents: Mr.S. Thamizharasi

ORDER

The petitioner along with similarly placed workers of Tamil Nadu Water Supply and Drainage Board (hereinafter referred to as "TWAD Board") preferred an application for conferment of Permanent Status. The competent authority passed an award dated 29 November 2002 in R.C.No.848 of 2002 directing the respondents to confer permanent status to them. The said order was not implemented by TWAD Board. The petitioner therefore filed a Writ Petition in W.P.No.3809 of 2004 along with others. The TWAD Board on the other hand filed a Writ Petition in W.P.No.4675 of 2004 challenging the award. This Court was pleased to pass a common order dated 9 February 2012 allowing the writ petition filed by the petitioner and other workmen and dismissing the writ petition filed by the Management. The common order was unsuccessfully challenged before this Court by way of intra court appeal in W.A.Nos.1644 and 1981 of 2012. Thereafter the matter was taken up before the Supreme Court. The Supreme Court dismissed the Special Leave Petitions. The TWAD Board implemented the order in respect of other workers. The case of the petitioner was not considered on the ground that his name was recorded as "A. Bhagavathi Paramasivam" in the records. However it was recorded as "A.B. Paramasivam" in the order passed by the competent authority constituted under the provisions of the Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workmen) Act, 1981. This unreasonable stand taken by the management compelled the petitioner to file this writ petition.

2. I have heard the learned counsel for the petitioner and the learned Standing Counsel appearing on behalf of the TWAD Board.

3. The petitioner along with sixteen others preferred a claim petition before the competent authority. His name was shown as "A.B. Paramasivam" in the claim petition. However, in all other records, the name of the petitioner was noted as "A. Bhagavathi Paramasivam". The TWAD Board was a party in all these matters. The TWAD Board filed a writ petition in W.P.No.4675 of 2004 challenging the award dated 29 November 2002. The petitioner was a party to the said writ petition. The petitioner entered appearance through counsel and defended the proceedings. Similarly he was a party in W.A.Nos. 1644 and 1981 of 2012. He was also a party in SLP (Civil) Nos.35106-35107 of 2012 before the Supreme Court. During the currency of these proceedings, the TWAD Board has no case that the petitioner is only "A.B.Paramasivam" and as such the person by name "A. Bhagavathi Paramasivam" is not entitled to contest the proceedings.

4. Since TWAD Board has taken up a contention regarding identity, I have directed the petitioner to file a sworn affidavit indicating the earlier proceedings.

5. The petitioner in his affidavit dated 5 February 2015 very clearly stated that he was wrongly described as "A.B. Paramasivam" instead of "A. Bhagavathi Paramasivam" and he only took part in all the earlier proceedings. He also stated that "A.B. Paramasivam" and "A. Bhagavathi Paramasivam" are one and the same.

6. The petitioner has substantially proved that the person by name "A.B. Paramasivam" made mentioned in the award dated 29 November 2002 is none other than "A. Bhagavathi Paramasivam". The fact that in the records maintained by the competent authority abbreviated name of Bhagavathi was shown should not cause prejudice to the petitioner.

7. The petitioner got an award as early as on 29 November 2002. He should not be denied the fruits of the award on account of the too technical approach taken by TWAD Board. It is not the case of TWAD Board that another person by name "A.B. Paramasivam" has also made a claim and as such a decision could not be taken in the matter. There is only one claim and that was made by the petitioner. Such being the factual position, the respondents were not correct in their contention that "A.B. Paramasivam" and A. Bhagavathi Paramasivam" are two different persons and as such it is not possible to give the petitioner benefits of the award dated 29 November 2002.

8. The first respondent is directed to implement the award dated 29 November 2002 in so far as the petitioner is concerned. It is open to the TWAD Board to take indemnity bond from the petitioner or affidavits declaring that he is the person shown as "A.B.Paramasivam" in the records maintained by the Competent Authority and the award dated 29 November 2002. Such exercise shall be completed within a period of two months from the date of receipt of a copy of this order.

9. The writ petition is allowed as indicated above. No costs.

Sd/-
Assistant Registrar
Dated:10.3.15

True Copy

Sub Assistant Registrar

To

1. THE MANAGING DIRECTOR
TAMIL NADU WATER SUPPLY
AND DRAINAGE BOARD
31, KAMARAJAR SALAI
CHEPAUK, CHENNAI-600 005.
2. THE JOINT CHIEF ENGINEER
TAMIL NADU WATER SUPPLY AND
DRAINAGE BOARD
31, KAMARAJAR SALAI
CHEPAUK , CHENNAI-600 005.
3. THE CHIEF ENGINEER
TAMIL NADU WATER SUPPLY
AND DRAINAGE BOARD COMPLEX
MAATUTHAVANI , MADURAI.
4. THE SUPERINTENDING ENGINEER
TAMIL NADU WATER SUPPLY
AND DRAINAGE BOARD
MADURAI, THENI AND DINDUGAL CIRCLE
TWAD BOARD COMPLEX
MAATUTHAVANI
MADURAI.
5. THE EXECUTIVE ENGINEER
TAMIL NADU WATER SUPPLY
AND DRAINAGE BOARD
MAINTENANCE DIVISION
TWAD BOARD COMPLEX
MAATUTHAVANI
MADURAI.

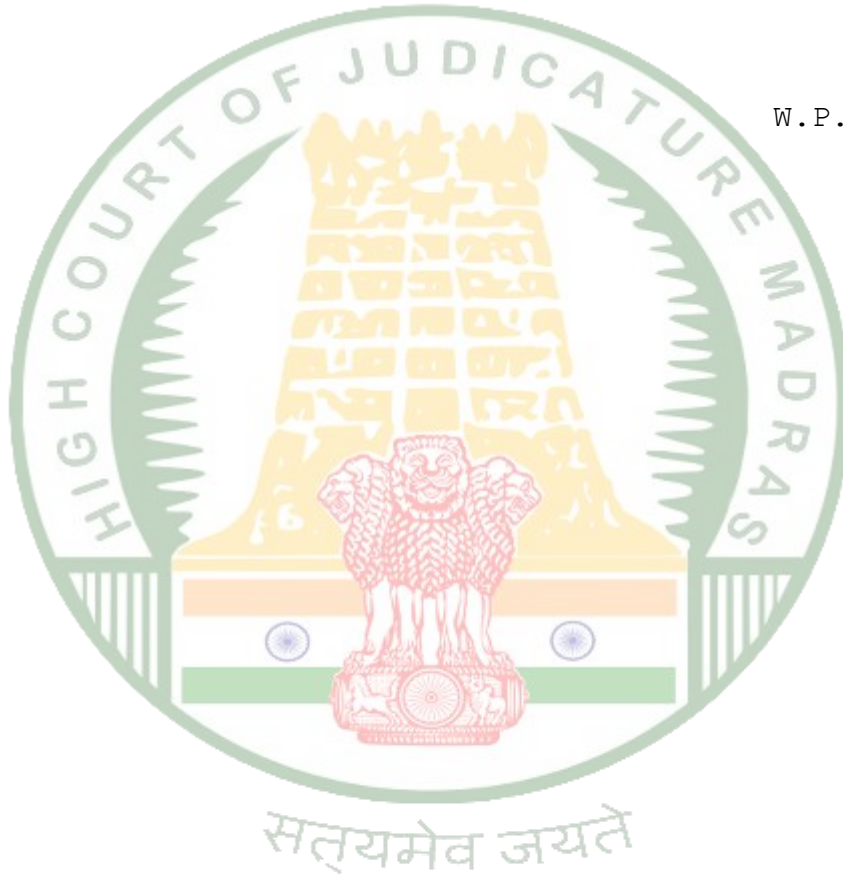
6. THE ASSISTANT EXECUTIVE ENGINEER
TAMIL NADU WATER SUPPLY AND
DRAINAGE BOARD
MAINTENANCE SUB DIVISION
THIMMARASANAikanur.

+1 cc to M/s.Law Square, SR.10543

+1 cc to M/s.Thamizharasi, Advocate,SR.10472.

rv(co)
krd 12/3

W.P.No.30935 of 2013



WEB COPY