

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2016

CORAM

THE HON'BLE MR. JUSTICE T.S.SIVAGNANAM

W.P.No.22329 of 2009

R.Palani

... Petitioner

Vs.

1. The Presiding Officer,
II Additional Labour Court,
Chennai - 600 104,
2. The Chairman & Managing Director,
Tamil Nadu Electricity Board,
No.792, Anna Salai, Chennai - 600 002,
3. The Superintending Engineer,
Chennai Electricity
Distribution Circle/North,
T.N.E.B., No.791, Anna Salai,
Chennai - 600 002. ... Respondent

Petition filed under Article 226 of The Constitution of India praying to issue a writ of certiorarified mandamus to call for the records relating to the award passed in I.D.No.391 of 2005 dated 8.7.2009 and quash the same and consequently direct the 2nd respondent to reinstate the petitioner in service with continuity of service and with back wages and other attendant benefits.

For Petitioner : Mr.S.T.Varadarajulu

For Respondents: Ms.R.Varalakshmi

O R D E R

The petitioner has filed this writ petition challenging the award passed by the II Additional Labour Court, Chennai in I.D.No.391 of 2005. The petitioner sought for reinstatement with back wages and consequential benefits in the I.D, which was dismissed by the Labour Court.

2. The case of petitioner is that he is entitled for reinstatement in service as the petitioner was earlier working in the Highways Department as watchman and was retrenched and subsequently the Government in order to rehabilitate those

persons issued direction to the District Collector, Chennai to give a list of those persons, pursuant to which, a Government Order was issued in G.O.Ms.No.50 Personal and Administrative Reforms (Personal-C) dated 19.11.1976, by which, a scheme was framed for retrenchment of such personnel similarly placed as that of the petitioner.

3. It is not in dispute that the petitioner's name is found place in the said list submitted by the Collector of Madras in his proceedings dated 25.5.1981 and his name figures at Sl.No.8. Based on the said proceedings, the petitioner was absorbed to the service of respondent Board on 23.9.1981 and he was promoted as Assessor on 17.5.1982 and he has completed 15 years of continuous service. While so, the petitioner was dismissed from service on the alleged ground that he has produced a false service certificate. This was found out during the process of verification, which resulted in issuance of charge memo dated 26.11.1993 to which the petitioner sent a reply on 11.2.1994 and the reply not being satisfactory, an Enquiry Officer was appointed who submitted a report on 18.4.1994 holding that the charges were proved and based on that the Superintending Engineer imposed punishment of dismissal from service. The petitioner challenged the said order before the Labour Court and the Labour Court by the impugned award dismissed the case on the ground that the report submitted by the Vigilance Department found that the service certificate of produced by the petitioner was false.

4. The case of the petitioner is at that at no point of time he has submitted any service certificate and it is the proceedings of the District Collector in which his name was included and after he completed 13 years of service in the respondent Board the petitioner should not have been dismissed from service on the reasons assigned by the Superintending Engineer.

5. It is pointed out by the learned counsel for the petitioner that one other candidate by name A.Manoharan, who was also similarly placed as that of the petitioner, whose name is at Sl.No.55 of the Order passed by the District Collector dated 25.5.1981, approached this Court by filing a writ petition in W.P.No.12209 of 1995 challenging the order of dismissal from service. The said writ petition was dismissed by the learned single Judge by order dated 22.6.2001, as against, which an appeal was preferred by the said A.Manoharan in Writ Appeal No.2832 of 2001, wherein, the Honourable Division Bench held that the order of removal from service passed by the Superintending Engineer and confirmed by the Writ Court was not sustainable. Accordingly, the same was set aside on the ground that the respondents failed to call for files from the District Collector and not verified the genuineness of the appellant's

certificate and having regard to the lapse of time and age of the appellant as of now, ends of justice would be met by denying back wages to the appellant from 9.12.1994 to the date of reinstatement on the principle of no work no pay.

6. Thus, it is seen that a person, who directly approached this Court was able to secure some relief, but whereas, the petitioner herein has miserably lost his case before the Labour Court. The facts, which were taken note of by the Honourable Division Bench in the said appeal are identical to that of the case of the petitioner and there can be no difference. Therefore, the petitioner also would be entitled to be treated on par with the said A.Manoharan. It is stated that the petitioner attained the notional age of superannuation on 25.3.2010 and has now suffered paralytic stroke and now he is bed-ridden and without any income he is suffering financially as well as physically.

7. In the light of the above, the writ petition is allowed and the impugned award is quashed and instead of sending the matter back to the Labour Court, the matter is remitted to the 3rd respondent to consider the petitioner's case based on the decision of the Honourable Division Bench of this Court in W.A.No.2832 of 2001 dated 27.3.2007 and grant certain equitable relief to the petitioner since he has been out of employment since April 1996 onwards and attained the notional age of superannuation on 25.3.2010. In the other case, the Honourable Division Bench has adopted principle of now work no pay and the same principle could also be adopted in the instant case, however, it is left to the discretion of the 2nd respondent, who shall act in an equitable and reasonable manner, more so, in the light of the fact that the judgment of the Division Bench in W.A.No.2832 of 2001 dated 27.3.2007 has been implemented by the respondent Board. The above directions shall be complied with by the 3rd respondent within a period of eight weeks from the date of receipt of a copy of this order. The petitioner is directed to submit a representation to the 3rd respondent along with a copy of this order and all other connected records for compliance of the above directions by the 3rd respondent. No costs.

-s/d-

Assistant Registrar(CSII)

True Copy

Sub-Assistant Registrar

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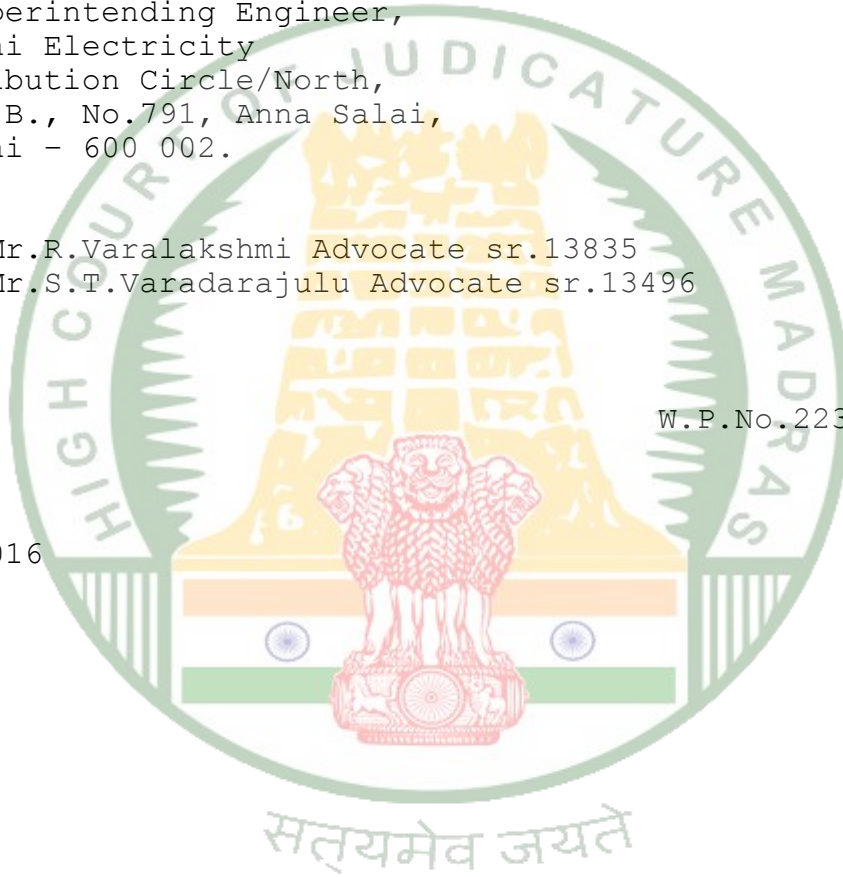
To

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+1 cc to Mr.R.Varalakshmi Advocate sr.13835
+1 cc to Mr.S.T.Varadarajulu Advocate sr.13496

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