

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SURESH KUMAR

W.P.No.13683 of 2009

& M.P.Nos. 1 & 2 of 2009

The President,
Rettampedu Panchayat,
Thervazhi Post,
Gummidipoondi Taluk,
Thiruvallur District

...Petitioner

Vs.

1. The Presiding Officer,
2nd Additional Labour Court,
Chennai - 600 104.

2. S.Kathavarayan

...Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the records of the first respondent pertaining to his order dated 24.09.2003 passed in C.P.No.238 of 2003 and quash the same.

For Petitioner : Mr.S.Rajendiran

For Respondents : Mr.R.Jaikumar for R2

ORDER

The prayer in the writ petition is for a writ of certiorari calling for the records of the first respondent pertaining to his order dated 24.09.2003 passed in C.P.No.238 of 2003 and quash the same.

2. The petitioner is the President of the Village Panchayat namely, Rettampedu Panchayat, Gummidipoondi Taluk, Thiruvallur District. The second respondent was employed in the petitioner's Panchayat as Pump Operator. In respect of the said job, according to the petitioner, the salary was fixed by the Government and have been paid to the second respondent. However,

the second respondent being not satisfied with the said salary had approached the first respondent ie., the Labour Court , by way of claim petition in C.P.No.238 of 2003 dated 28.05.2003, wherein he had claimed a difference of salary, based on the Minimum Wages Act, which according to the second respondent, was calculated to the tune of Rs.35,145/- and the same was sought to be paid by the petitioner to the second respondent.

3. The first respondent, the Labour Court considered the said claim petition and passed the impugned order dated 24.09.2003, whereby the first respondent allowed the claim of the second respondent and directed the petitioner to pay a sum of Rs. 35,145/- to the second respondent. Aggrieved by the said order of the first respondent the petitioner has come out with the present writ petition.

4. Heard both sides.

5. The learned counsel appearing for the petitioner would contend that the salary to be paid for the workers employed in the local authority including the petitioner's Panchayat, will be fixed by the Government, from time to time. In this regard, the learned counsel for the petitioner has relied upon the Government Order in G.O.Ms. No. 449 dated 06.06.1997 Labour and Employment Department, by which under the schedule the employees working in Village Panchayats had been fixed which reads as follows :-

"II. EMPLOYEES IN VILLAGE PANCHAYATS

Class of employees (1)	Minimum rates of wages (2)
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(1) Un-skilled

Grade I	Rs.104/- per month plus a special allowance of Rs.10/- per month
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Grade II	Rs. 100/- per month
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(2) Semi-skilled

Grade I	Rs. 130/- per month
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Grade II	Rs. 120/- per month
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(3) Skilled

Grade I	Rs. 150/- per month
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Grade II	Rs. 140/- per month
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In addition to the above wages, the employees (un-skilled; semi-skilled) shall be

eligible for Dearness Allowance as detailed below
:-

Pay	Dearnes Allowances
Upto Rs.	Rs.
130	85-00
135	85-60
140	88-30
145	91-00
150	93-60
155 to 170	95-00"

6. Further the learned counsel for the petitioner would submit that the second respondent being a Pump Operator, could not be treated as semi skilled or skilled employee.

7. In order to ascertain the position of pump operators working in local bodies, as to whether they are belonging to skilled or un-skilled category, this Court, in the earlier occasion, has considered the said issue in W.P. No. 18100 of 1992 by its order dated 09.09.1997. In the said order, this Court, considered the rival submissions made in the writ petition, has ultimately concluded at paragraph 9 of the judgment which reads as follows :-

"9. I am unable to accept the argument of learned counsel for the petitioner since all the above said works are interconnected. As a matter of fact, it is specifically pleaded in the counter affidavit filed by the 1st respondent that the members of the petitioner - Sangam are designated as overhead water tank pump operators and it is not correct to state that they are pump drivers and eligible for the wages prescribed for skilled Grade I workers as per G.O.Ms.No.449, Labour and Employment, dated 06.06.1997. As per the provisions of Tamil Nadu Panchayats Act and particularly as per Section 57(3) thereof the 1st respondent, being the Inspector of Panchayats, is competent to issue directions such as revision of wages, etc....."

8. In view of the said conclusive decision of this Court, wherein it has been found that the pump operators are treated as un-skilled employees, they would be entitled to get

the salary fixed by the Government for un-skilled employees. Further the calculation projected by the second respondent before the first respondent by claim petition is totally baseless and therefore impugned order passed by the first respondent based on which is to be necessarily set aside, the learned counsel for the petitioner contended.

9. Per contra the learned counsel for the second respondent would contend that the second respondent would be eligible to get the salary as fixed by the Government from time to time, based on the G.O.No. 449, Labour and Employment Department, dated 06.06.1977. The salary for unskilled workers working in the Village Panchayats especially Grade II people is Rs.100/-per month and Grade I is Rs.104 plus Rs.10/- special allowance per month. That apart, they are entitled to get Dearness Allowance as classified under the G.O. itself. Therefore, taking a clue from the said G.O., the salary paid to the petitioner is very meager. Therefore, there is justification for the second respondent to make a claim and absolutely there is no illegality in making such claim and therefore, the impugned order need not be interfered.

10. From the rival submissions made by the learned counsel for the parties, it is seen that the petitioner has employed the second respondent and his category as decided by the Government in the Judgment referred above is un-skilled. Even an un-skilled grade as per the G.O.Ms. 449, Labour and Employment Department, dated 06.06.1977, he would be entitled for minimum payment of Rs. 100 per month for Grade II employee and Rs.104 for Grade I employee along with Rs.10 for special allowance per month and also the employee would be entitled to get Dearness Allowance based on the said G.O. Even the payment which has already been made to the second respondent by the petitioner panchayat is very less and therefore that order passed by the first respondent is acceptable.

11. However, the scale of pay is being increased from time to time and at this juncture, it is even Rs.3,000 per month. The revised payment of salary for which the second respondent is entitled to for the relevant period expressed in the impugned order is to be re-assessed and re-calculated based on the G.O. referred above.

12. Therefore, this Court is of the view that the impugned order is liable to be set aside by remanding the matter back to the first respondent to re-assess and re-calculate the difference of pay payable to the second respondent as fresh.

13. With these observations the writ petition is allowed and the impugned order is quashed and the matter is

remanded back to the first respondent for re-consideration. The first respondent Labour Court shall reconsider the whole issue by making a re-calculation of the difference of amount payable to the second respondent for the period explained in the impugned order based on the G.O.Ms.No.449, Labour and Employment Department, dated 06.06.1977 and on that basis the calculated amount may be directed to be paid to the second respondent. Since the second respondent being a low grade servant and has been waiting for several years, the needfull shall be done by the Labour Court within a period of three months from the date of receipt of a copy of this Order.

14. Hence the writ petition is allowed to that extent indicated above. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rts

To

The Presiding Officer,
2nd Additional Labour Court,
Chennai - 600 104.

+1cc to Mr.S. Rajendiran, Advocate, S.R.No.64219

GJII(CO)
bb(28/12/2016)

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