

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.10.2016

CORAM

THE HON'BLE MR. JUSTICE R.SURESH KUMAR

W.P.No.15542 of 2009

and

M.P.No.1 of 2009

R.Mahendran

... Petitioner

Vs.

1.State of Tamil Nadu,
rep. by Secretary,
Forest Department,
Fort St. George, Chennai.

2.Principle Chief Conservator of Forests,
Panagal Building, Saidapet, Chennai.

3.The District Forest Officer,
Thirupathur Division, Thirupathur.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents to reinstate the petitioner as Plot Watcher with all backwages, continuity of service and all other consequential benefits from 01.04.2007 to till the date of reinstatement.

For Petitioner : Mr.K.Vasudevan

For Respondents : Mr.N.Inbanathan

O R D E R

The petitioner has come up with this writ petition for the issuance of a writ of Mandamus directing the respondents to reinstate the petitioner as Plot Watcher with all backwages, continuity of service and all other consequential benefits from 01.04.2007 to till the date of reinstatement.

2.The case of the petitioner is that he was engaged by the respondent / department as Plot Watcher for several years from the year 1986 till 2008, there is no order of appointment or termination in writing and engagement was only oral as a casual labour. In support of his claim, the petitioner has filed a document dated 30.04.2009 issued by the 3rd respondent / District Forest Officer, wherein a tabular column has been given, according to which the petitioner had been engaged as a daily casual labour from October 1986 till October 2008. Ofcourse, for a shorter period of 20 to 25 days every month with break in service.

3.Apart from this, no other order of appointment or termination or orders pertaining to the disbursement of any service benefits including wages to the petitioner has not been filed before this Court.

4.Heard the learned counsel appearing for both sides.

5.The learned counsel appearing for the petitioner during the course of arguments submitted that in so far as the grievances is concerned, the petitioner had already approached the Conciliation Officer and after some time without pursuing the said Industrial Dispute raised by him, he had voluntarily withdrawn and had come out with the present writ petition with the aforesaid prayer.

6. The petitioner approached the Conciliation Officer, but no failure report had been given. However, it is not known whether the petitioner had further agitated the issue by approaching the appropriate authority either for issuance of failure report or in that case refers to the Labour Court by the appropriate authority.

7. In the circumstances, this Court is of the clear view that the issue raised in the present writ petition can very well be agitated before the Labour Court under the Industrial Dispute Act and which attempt though had been taken initially by the petitioner for the reasons best known to him dropped the same, according to the learned counsel appearing for the petitioner.

8. Be that as it may, this conflicting issue of engagement of casual labour for several months or years are the matter for evidence and the same has to be decided only by the competent Labour Court or any other authority in an appropriate Industrial Dispute raised on behalf of the petitioner. Therefore, in the present circumstances, this Court is of the considered view that a liberty can be given to the petitioner to raise Industrial Dispute against the respondents for his grievances in the manner known to law and if such attempt is made to the appropriate

authority under the Industrial Dispute Act, the delay for all these years where the present writ petition is pending before this Court cannot be taken as against the petitioner.

9. With these observations, the writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Asst. Registrar

/true copy/

Sub Asst. Registrar

vs

To

1. State of Tamil Nadu,
The Secretary to Government,
Forest Department,
Fort St. George, Chennai.
 2. Principal Chief Conservator of Forests,
Panagal Building, Saidapet, Chennai.
 3. The District Forest Officer,
Thirupathur Division, Thirupathur.
- 1 CC K. Vasudevan, SR.59952
1CC to Special Government Pleader (Forest) SR.60107

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and
M.P.No.1 of 2009

NR(CO)
CS 12/11/2016

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