

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.06.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.A.No.748 of 2016

1. The Divisional Engineer
Highways
Tiruvannamalai
2. The Assistant Divisional Engineer
Highways, Arni ... Appellants/ Petitioners

-vs-

1. T.Dhanachezhiyan
2. The Presiding Officer
Labour Court
Vellore-9 ... Respondents / Respondents

Appeal under Clause 15 of the Letters Patent, against the order dated 07.03.2012 made in W.P.No.37889 of 2007.

This Writ petition is preferred under Article 226 of the constitution of India praying for the issue of a writ of certiorari to call for the records on the file of the second respondent in I.D.NO.152 of 2000 dated 12.12.2006 and quash the same.

For Appellants :: Mrs.A.Srijayanthi
Special Government Pleader

For Respondents:: Mr.J.Saravanel for R1

JUDGMENT

(Judgment of the Court was made by HULUVADI G.RAMESH, J.)

At the stage of admission, this matter is taken up for final disposal. Heard the learned Special Government Pleader for the appellants and the learned counsel for the first respondent.

2. This writ appeal is directed against the order of the learned single Judge dated 7.3.2012 made in W.P.No.37889 of 2007, whereby the learned single Judge has dismissed the writ petition filed by the appellants and confirmed the award passed by the

second respondent-Labour Court in I.D.No.152 of 2000 dated 12.12.2006 in favour of the first respondent.

3. It appears that the first respondent/workman raised a dispute under Section 2-A(2) of the Industrial Disputes Act in I.D.No.152 of 2000 before the Labour Court, Vellore for the relief of reinstatement with backwages, continuity of service and other benefits, contending that he was engaged on Nominal Muster Roll basis in the Highways Department from 1990 as a Technical Assistant at the rate of Rs.50/- per day and had worked in the Highways Department for more than 300 days. Since the Government had issued G.O.Ms.No.95 dated 4.2.88 that the workers working on temporary basis for more than five years would be made permanent, he demanded for fair wages to be paid to him, however, the Department had stopped him from work from 16.3.98 unreasonably without any charges or enquiry nor paid any compensation. Although the said dispute was resisted by the appellant-Department by contending that the petition was not maintainable, as the first respondent did not work for more than 240 days in a year and his name also did not figure in the 'M' book and imprest accounts maintained for the period between 1991 and 1999, the second respondent-Labour Court passed an award directing the appellant Department to reinstate the first respondent with 50% of backwages and continuity of service, but rejected the claim for payment of other benefits. When the said award was challenged in the writ petition, the learned single Judge has dismissed the writ petition holding that no case was made out to interfere with the award of the Labour Court. Hence this appeal.

4. By the order of the learned single Judge, the first respondent has been ordered to be reinstated in service with 50% of backwages. However, after ascertaining the fact that he was not in duty, we feel that the order of the learned single Judge directing the appellants herein to pay 50% of backwages appears to be without any basis and justification and hence the order of the learned single Judge confirming the award of the Labour Court for payment of 50% of backwages is liable to be interfered with on the principle of "no work-no pay". Accordingly, while upholding the order of the learned single Judge as well the award of the Labour Court with regard to the reinstatement of the first respondent with continuity of service, we set aside the direction for payment of 50% of backwages alone on the principle of "no work-no pay". The appellants are directed to reinstate the first respondent in service within one month from today. With this direction, the writ appeal is allowed in part. Consequently, C.M.P.No.9660 of 2016 is closed. No costs.

Sd/-
Asst.Registrar (CCC)

/true copy/
Sub Asst. Registrar

ss

To

1. The Presiding Officer
Labour Court
Vellore

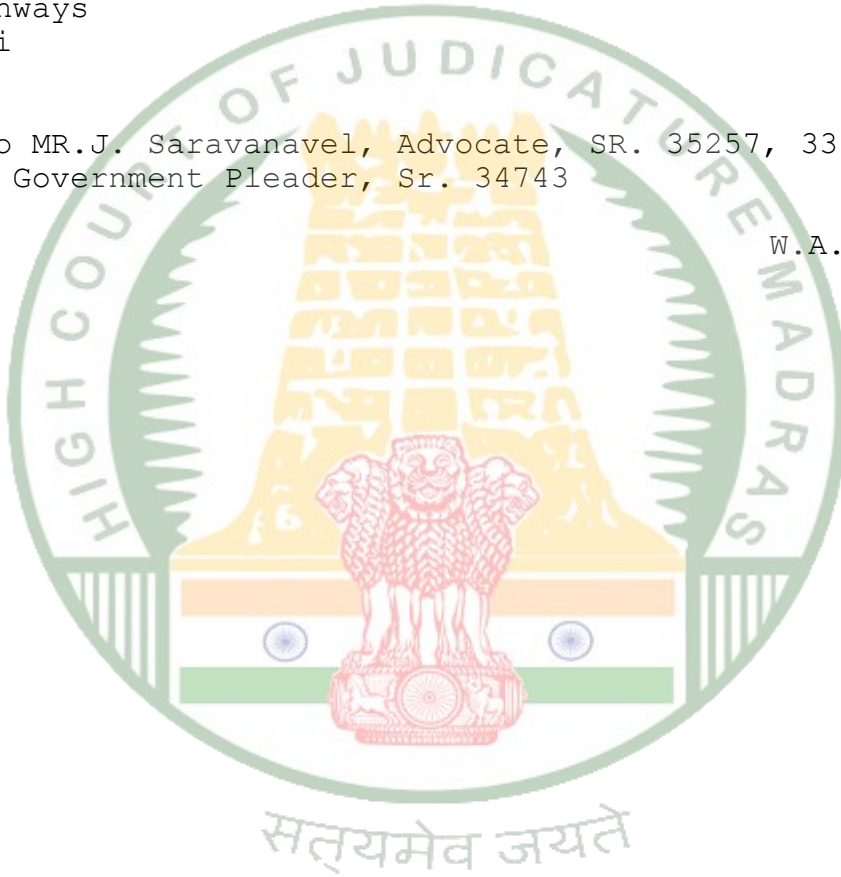
2. The Divisional Engineer
Highways
Tiruvannamalai

3. The Assistant Divisional Engineer
Highways
Arni

2 ccs to MR.J. Saravanavel, Advocate, SR. 35257, 33563
1 cc to Government Pleader, Sr. 34743

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