

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2016

CORAM :

THE HON'BLE MR. JUSTICE T.RAJA

W.P.Nos.43591 to 43603 of 2016

and connected miscellaneous petitions
(WP.No.37420 to 37444/16)

The Executive Engineer
Tamil Nadu Water and Drainage Board,
Maintenance Division,
134, Southern Transport Buildings,
Namakkal - 1. ... Petitioner in WP.43591 to 43603

vs.

1. Devaki
W/o. Late Prabhu
2. Swetha
W/o. Late Prabhu
3. Rani
W/o. Late Devaraj ...1 to 3 Respondents in WP.MD.43591/16
4. The Presiding Officer
Labour Court,
Salem. ...4th Respondent in WP.43591, R2 in
WP.43592, R2 in WP.43593 to 43603
- 5.M.Kannan ..R1 in WP.43592/16
- 6.K.Manivel ..R1 in WP.43593/16
- 7.A.Loganathan ..R1 in WP.43594/16
- 8.G.Mohamed Rafi ..R1 in WP.43595/16
- 9.T.Thangaraj ..R1 in WP.43596/16
- 10.P.Raja ..R1 in WP.43597/16
- 11.C.Kandasamy ..R1 in WP.43598/16
- 12.M.Utharakumar ..R1 in WP.43599/16
- 13.R.Sengottian ..R1 in WP.43600/16
- 14.P.Deepan ..R1 in WP.43601/16
- 15.T.Swaminathan ..R1 in WP.43602/16
- 16.V.K.Karikalan ..R1 in WP.43603/16

1.Prayer in W.P.No.43591 of 2016 : Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus, to call for the records in C.P.No.16 of 2011 on the file of Presiding Officer Labour Court, Salem and quash the order, dated 05.06.2014 as illegal.

2.WP.43592/16: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a calling for records in C.P.No.17 of 2011 on the file of Honourable Presiding Officer Labour Court Salem and quash the order dated 05.06.2014 as illegal.

3.WP.No.43593/16: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a calling for records in C.P.No.18 of 2011 on the file of Honourable Presiding Officer Labour Court Salem and quash the order dated 05.06.2014 as illegal.

4.WP.No.43594/16: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a calling for records in C.P.No.19 of 2011 on the file of Honourable Presiding Officer Labour Court Salem and quash the order dated 05.06.2014 as illegal.

5.WP.43595/16: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a calling for records in C.P.No.20 of 2011 on the file of Honourable Presiding Officer Labour Court Salem and quash the order dated 05.06.2014 as illegal.

6.WP.43596/16: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a calling for records in C.P.No.21 of 2011 on the file of Honourable Presiding Officer Labour Court Salem and quash the order dated 05.06.2014 as illegal.

7.WP.43597/16: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a calling for records in C.P.No.22 of 2011 on the file of Honourable Presiding Officer Labour Court Salem and quash the order dated 05.06.2014 as illegal.

WP.43598/16: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a calling for records in C.P.No.26 of 2011 on the file of Honourable Presiding Officer Labour Court Salem (2nd respondent herein) and quash the order dated 05.06.2014 as illegal.

WP.43599/16: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a calling for records in C.P.No.27 of 2011 on the file of Honourable Presiding Officer Labour Court Salem and quash the order dated 05.06.2014 as illegal.

WP.43600/16: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a calling for records in C.P.No.28 of 2011 on the file of Honourable Presiding Officer Labour Court Salem and quash the order dated 05.06.2014 as illegal.

WP.43601/16: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a calling for records in C.P.No.29 of 2011 on the file of Honourable Presiding Officer Labour Court Salem and quash the order dated 05.06.2014 as illegal.

WP.43602/16: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a calling for records in C.P.No.30 of 2011 on the file of Honourable Presiding Officer Labour Court Salem and quash the order dated 05.06.2014 as illegal.

WP.43603/16: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a calling for records in C.P.No.31 of 2011 on the file of Honourable Presiding Officer Labour Court Salem and quash the order dated 05.06.2014 as illegal.

For petitioner : Mr.R.Ganesh Babu
in all the writ petitions

COMMON ORDER

This Executive Engineer, Tamil Nadu Water and Drainage Board, has come to this Court challenging the correctness of the common order dated 05.06.2014 made in C.P.Nos.16 to 22 and 26 to 31 of 2011 passed by the Labour Court, Salem.

2. The learned counsel appearing for the petitioners would submit that when the respondents were employed as contract labourers under various contractors who have maintained combined water supply scheme at various period along with 12 other contract labourers, they have also filed petition seeking regularisation of their service before the Deputy Chief Inspector of Factories as if they have worked for nearly 480 days as a contract labour. After conducting enquiry in file No.A/6300/07, the authority, namely, Deputy Chief Inspector of Factories, rejecting the case of the petitioner concluded the enquiry in favour of the contract labourers, by order, dated 24.11.2009.

3. Aggrieved by the said order, this petitioner filed W.P.No.3178 of 2011 and the same was dismissed by this Court on 23.02.2011 by confirming the order passed by the Deputy Chief Inspector of Factories. Against that order, writ appeal filed in W.A.No.697 of 2011 also came to be dismissed and in the meanwhile, the deceased Prabhu in W.P.No.43591 of 2016 and other contract labourers harmed with the order passed by the authority has filed claim petition in C.P.Nos.16 to 22 and 26 to 31 of 2011 on the file of the Labour Court, Salem. Both the petitioner and the management filed preliminary objections for maintainability of the claim petition, taking a stand that during the pendency of the writ appeal, they are not entitled to move the aforementioned claim petitions and there upon sought permission to receive additional document, dated 21.08.2012 to the Deputy Chief Inspector of Factories by Proceeding

No.A/2861/12. The Labour Court, by order dated 05.06.2014 was pleased to reject the contention of the petitioner Board and passed an award directing the petitioner / management to pay back wages as stated in the order, on condition that the order of the claim petition is subject to the outcome of the writ appeal.

4. Subsequently when the writ appeal came up for consideration, the same was also dismissed by order, dated 15.12.2014. Against which the petitioner also preferred Special Leave Petition before the Apex Court in S.L.P.No.13562 of 2015, which was also dismissed by order, dated 08.05.2015 leaving the question of law open. Therefore, in view of the above, without proper calculation of the amount and the period mentioned therein, the claim petitions ought not to have been entertained.

5. This Court clearly finds no merit on the submissions made by the learned counsel appearing for the petitioner. The reason is that the respondents in all the writ petitions had approached the Deputy Chief Inspector of Factories, seeking order of regularisation of their services on the ground that they had completed 480 days as a Contract Labour. After conducting detailed enquiry, the Deputy Chief Inspector of Factories, rejecting the objection raised by the petitioner / Board, passed an order on 24.11.2009, directing the petitioner-Board to regularise their services. Subsequently, the said order was challenged in W.P.No.3178 of 2011 and the said writ petition was dismissed by order, dated 23.02.2011 by confirming the order passed by the authority. As against the said order, writ appeal in W.A.No.697 of 2011 and S.L.P.No.13562 of 2015 were also dismissed. Therefore, the subsequent claim petitions in C.P.Nos.16 to 22 and 26 to 31 of 2011 filed by the employees were considered by the Labour Court and after full hearing, dealing with the objections raised by the petitioner-Board allowed the same. Therefore, this Court is not able to file any merit in all the writ petitions.

6. The learned counsel appearing for the petitioner submits that if the orders impugned in the present writ petitions are not stayed, the Officer would face arrest warrant. This Court is not inclined to entertain the said submissions for the reason that when the order passed by the Deputy Chief Inspector of Factories was upheld by this Court in writ petition, writ appeal and also by the Apex Court in SLP, it is not known as to why the Executive Engineer has not come forward to comply with the said order.

7. Thus, for the reasons stated above, all these writ petitions fail and the same are dismissed. No Costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Asst.Registrar (CS VII)

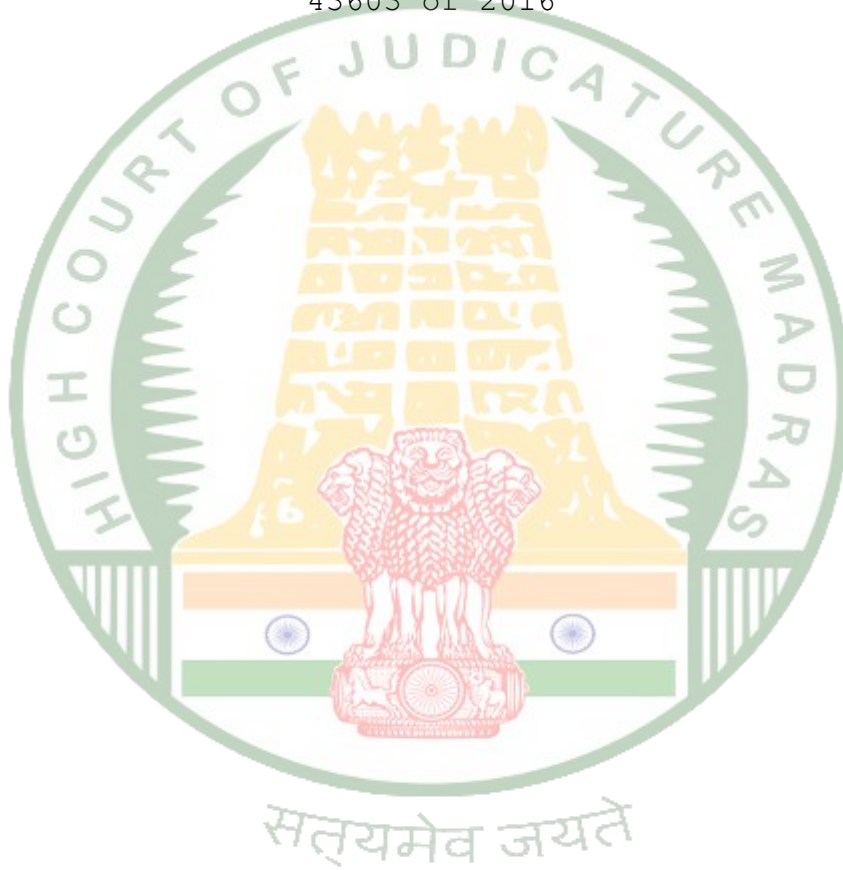
To

The Presiding Officer
Labour Court,
Salem.

+13 cc's to Mr.R.Ganesh Babu,advocate,sr.74290 to 74302

skv(co)
krd 10/1

W.P.Nos.43591 to
43603 of 2016



WEB COPY