

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.10.2017

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.4328 of 2014

S.Manoharan

... Petitioner

Vs

1.The Chief Engineer,
Tamil Nadu Water and Drainage Board,
31, Kamarajar Salai,
Chepauk, Chennai - 600 005.

2.The Executive,
Tamil Nadu Water and Drainage Board,
E.E.C. Division, Erode. ... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the respondents to consider the petitioner's representation dated 15.08.2012 and implementation of the Labour Court order in I.D.No.364 of 2000 dated 27.12.2004.

For Petitioner : Mr.R.Sreedharan

O R D E R

The relief sought for in this writ petition is for a direction to direct the respondents to consider the representation of the writ petitioner dated 15.08.2012, in relation to the implementation of the Labour Court order in I.D.No.364 of 2000 dated 27.12.2004.

2.The learned counsel appearing for the writ petitioner made a submission that the writ petitioner on completion of his tenth standard obtained certificate of Driving License and registered his name in the District Employment Office, Erode on 24.12.1985. On the very same year, the District Employment Officer sponsored the name of the writ petitioner and accordingly he had participated in the interview held on 13.01.1986. The petitioner got selected to the post of Jeep Driver in the Tamil Nadu Water and Drainage Board, Kangeyam Sub Division. The petitioner joined in the post and thereafter transferred to the office of the second respondent at Erode. The writ petitioner was terminated from service on 16.08.1998 and he raised a dispute before the Labour Court, Salem. The Labour Court, Salem passed an award on 27.12.2004. However, no action was taken thereafter by the writ

petitioner. After a lapse of 10 years, the writ petitioner has chosen to file this writ petition on 22.01.2014 with a prayer to consider the representation submitted by him on 15.08.2012.

3. Neither the writ petition can be filed nor the same can be entertained by this Court, for the purpose of creating a new cause of action. On termination, the writ petitioner got aggrieved and rightly he has chosen to file a proper proceedings under the provisions of the Industrial Dispute Act. Contrarily, he had waited for ten years and thereafter sent a representation to the respondents and moved this writ petition under Article 226 of the Constitution of India, with a prayer to consider the representation and pass orders.

4. The award passed by the Labour Court cannot be implemented in such a manner by issuing a direction to consider the representation. This Court cannot issue any such order in the nature of recommendation so as to implement the award passed by the Labour Court. It is for the writ petitioner to work out the remedy in the manner known to law and this Court cannot issue any such direction to consider the representation in this regard, now after a lapse of 17 years from the date of issuance of the award. Thus, no relief can be granted as such sought for by the writ petitioner.

5. Further, the writ petitioner has made an attempt to create a new cause of action so as to proceed, based on the order initially passed by this Court in the writ petition. This being the ill-motive of the writ petitioner in filing this writ petition, this Court has construed that the writ petitioner has not approached this Court with clean hands and accordingly, the matter cannot be adjudicated on merits and on the grounds raised in this writ petition.

Accordingly, the Writ Petition stands dismissed. However, there is no order as to costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar

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To

1. The Chief Engineer,
Tamil Nadu Water and Drainage Board,
31, Kamarajar Salai,
Chepauk, Chennai - 600 005.

2.The Executive,
Tamil Nadu Water and Drainage Board,
E.E.C. Division, Erode.

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KS (CO)
GN (22/11/2017)



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