

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2017

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

Writ Petition Nos. 43858, 44592 to 44596, 44139 to 44143 of 2016, 43851, 43852, 43859, 43861, 43860 of 2016,
259, 409, 410, 433, 444, 235, 239, 240, 258 of 2017,
1223, 1708, 1709, 234 and 241 of 2017
and
W.M.P.Nos. 37686, 38404 to 38408, 37972 to 37976
of 2016 37680, 37681, 37687 to 37689 of 2016,
252, 258, 284, 278, 419, 433, 462 of 2017
432/2017, 468, 1158, 251, 279 of 2017

1. A.RAGAMATHULLAH
I.D.NO.355/2001 A/O.ATHANGARIYAR 124
OCHERI RD KRISHNAMPET ARAKONAM-2. NOW AT:
NO.8 OCHERI RD KRISHNAPET ARAKONAM-2
VELLORE DISTRICT. ... PETITIONER in WP No.44139 of 2016
- 1 L.EDWIN RAJAN(I.D.NO.351/2001)
HF 194 D RAILWAY QUARTERS PALANIPET
ARAKKONAM-1 NOW: L.E.RAJAN@L.EDWIN RAJAN
NO. 16/A 8TH STREET T.N.NAGAR PALANIPET
PO ARAKKONAM-1.
... PETITIONER in WP No.44140 of 2016
- 1 V.DHANDAPANI (I.D.NO.374/2001)
2 BOUL NAIDU ST. PALANIPET ARAKKONAM-2 NOW
AT: V.DHANDAPANI S/O.N.VISWANATHAN 19
KANDAIGAI 1ST ST. PALANIPET ARAKKONAM-2
VELLORE DISTRICT.
... PETITIONER in WP No.44141 of 2016
- 1 P.KUDIARASU(I.D.NO.320/2001)
78/36 BIG ST. PERUMOOCH VILLAGE ARAKKONAM
NOW AT: P.KUDIARASU S/O.E.PERUMAL NO.1/96
BIG ST. PERUMUCHI VILL. AND PO. ARAKKONAM.
... PETITIONER in WP No.44142 of 2016

- 1 D.RAJASEKHARAN (I.D.NO.357/2001
NO.44 MUNICIPAL QUARTERS T.B.ROAD
ARAKKONAM-3 NOW AT: D.RAJASEKHARAN S/O.R.
DAVID 35 MUNICIPAL QUARTERS T.B.ROAD.
ARAKKONAM-2 VELLORE DT.
... PETITIONER in WP No.44143 of 2016
- 1 P.RAJASEKHAR (I.D.NO.322/ 2001
NOW AT P.RAJASEKHAR S/O.P.PUNNIYAKODI NO.
12A/38 SOMASUNDARAM 1ST STREET PALANIPET
ARAKKONAM VELLORE DISTRICT-631002
... PETITIONER in WP No.43851 of 2016
- 1 R.RAMESH (I.D.NO.314/2001)
ANAIPAKKAM VILL & PO ARAKKONAM-631 001 NOW
AT: R.RAMESH S/O.S.ROSEREDDY NO.85 NORTH
ST ANAIPAKKAM VILL&PO ARAKKONAM-631 003
VELLORE DISTRICT.
... PETITIONER in WP No.43858 of 2016
- 1 D.DIVAKARAN
(I.D.OP.NO.369/2001) 107 SOSUNDARAM 1ST ST.
PALANIPET PO. ARAKKONAM-2 NOW AT 29
SOMASUNDHARA NAGAR PALANIPET PO. ARAKKONAM
VELLORE DISTRICT
... PETITIONER in WP No.44592 of 2016
- 1 A.S.ANDREWS BABU
(I.D.NO.363/2001) 52/12 VASANTHA NAGAR
THALIKKAL ARAKKONAM-2 NOW AT 27 BAZZAR ST.
AMIRTHAPURAM MEL-TIRUTTANI TIRUVALLUR DT
TIRUTTANI-631 209
... PETITIONER in WP No.44593 of 2016
- 1 A.BASKAR (I.D.NO.334/2001)
40/60 KANDIGAI ST. PARUTHIPUTHUR ARAKKONAM-
2 NOW AT 427 KANDIGAI ST. PARUTHIPUTHUR
ARAKKONAM VELLORE DISTRICT-631 002
... PETITIONER in WP No.44594 of 2016
- 1 A.CHANDRASEKHARAN
(I.D.NO.325/2001) 2/62 A.V.M.ST.
PERUMOOCHI VILLAGE ARAKKONAM NOW AT 13/62A
MANIYAKARA ST. PERUMUCHI VILLAGE AND PO.
ARAKKONAM VELLORE DT ... PETITIONER in WP No.44595 of 2016

- 1 K.PARTHASARATHY (I.D.NO.352/
2001) 6 3RD ST. SOMASUNDERARAM NAGAR
PALLANIPET PO. ARAKKONAM-2 NOW AT 7
SOMASUNDRA NAGAR 3RD ST. PALLANIPET PO.
ARAKKONAM VELLORE DT
... PETITIONER in WP No.44596 of 2016
- 1 A.VICTOR (I.D. NO.326/ 2001)
NOW AT A.VICTOR S/O.S.ARJUNAN NO.2/390
BIG STREET PERUMUCHI VILLAGE AND POST
ARAKONAM VELLORE DISTRICT-631002
... PETITIONER in WP No.43852 of 2016
- 1 T.WINFRED PRABHAKARAN
I.D.NO.337/2001 NOW AT T.WINFRED PRABHAKARA
NO.235/1A REDDIYAR STREET KOLATHUR VILLAGE
& PO PALLIPET TK THIRUVALLUR DISTRICT
PALLIPET-631207 ... PETITIONER in WP No.43859 of 2016
- 1 N.CHANDRASEKHAR KUMAR
(I.D.NO.362/2001) P1/2 C TYPE QUARTERS
NAVAL DEFENCE PEYKAIPAKKAM PERUMCHI PO.
ARAKKONAM NOW AT 26 DR.AMBEDKAR ST.
PALLIKARANAI CHENNAI-100
... PETITIONER in WP No.43861 of 2016
- 1 M.MURUGAN (I.D.NO.368/ 2001)
HF 42B RAILWAY QUARTERS PALANIPET
ARRAKKONAM NOW AT M.MURUGAN NO.50
SOMASUNDARAM 1ST STREET PALANIPET
ARAKKONAM VELLORE DISTRICT
... PETITIONER in WP No.43860 of 2016
- 1 M. GEORGE (I.D.NO.327/2001)
NO.27 CHEYYAR ROAD GRIGILESPET
ARRAKKONAM NO:3/47 CHINNAMMA STREET 100
FEET ROAD BALASUBRAMANI NAGAR MANALI
CHINNAMATHUR CHENNAI-68
... PETITIONER in WP No.259 of 2017
- 1 S.IBRAHIM (I.D.NO.335/ 2001)
NO.32 E BROAD WINTERPET ARAKKONAM- 005
NOW AT S.IBRAHIM NO.51 MUBHARAK NAGAR 3RD
STREET KRISHNAMPETTAI PALANIPET POST
ARAKKONAM- 002.
... PETITIONER in WP No.409 of 2017

- 1 K.RADHAKRISHNAN
(I.D. NO.316/ 2001) S/O.S.KADHIRVELU NO.117
OLD BAZAAR STREET ARAKKONAM VELLORE
DISTRICT
... PETITIONER in WP No.410 of 2017
- 1 A.SYED KARIMULLAH (I.D.NO.358/
2001) NO.61 MOSQUE STREET ARAKKONAM NOW
AT NO:39/61 MOSQUE STREET ARAKKONAM 631 001
VELLORE DISTRICT
... PETITIONER in WP No.433 of 2017
- 1 S.SIMON SUNDARAJ (I.D.NO.360/
2001) NO.30 A.N.KANDIGAI 3RD STREET
PALANIPET POST ARAKKONAM NOW AT NO:30/45
A.N.KANDIGAI 3RD STREET PALANIPET
ARAKKONAM 631 002
... PETITIONER in WP No.444 of 2017
- 1 C.MUNIENDHRAN (ID NO.356/2001)
142 SRIRAM NAGAR PILIAMANGALAM PO NR.LOCO
SHEET ARAKKONAM-4 NOW AT: 196/A RAGHUMAN
1ST ST SRIRAM NAGAR PULIYAMANGAM PO
ARAKKONAM TK-2.
... PETITIONER in WP No.235 of 2017
- 1 S.MOHANARANGAM (ID NO.333/01)
VELLOREPALAYAM VILL MOOTHUR PO ARAKKONAM-2
NOW AT: 4/1444 KAMBAR ST ANNANAGAR WEST
NATAHAMMEDU VILL PAKKAM PO THIRUNINRAVUR-
602 024
... PETITIONER in WP No.239 of 2017
- 1 K.R.SARATH BABU (I.D. NO.
98/2002) 5/1 A.B.M.CHURCH PALANIPET
ARAKKONAM 002 NOW AT K.R.SARATH BABU NO.5
ABM CHURCH PALANIPET POST ARAKKONAM
VELLORE DISTRICT 002
... PETITIONER in WP No.240 of 2017
- 1 P.JOSEPH RAJAKUMAR (I.D. NO.
353/2001) S/O.M.J.PONNUDURAI NO.88/97
MURUGAPPA STREET SUVALPET ARAKKONAM
VELLORE DISTRICT 631 001
... PETITIONER in WP No.258 of 2017

1 S.UMA SHANKAR I.D.NO.315/2001
NOW AT. NO.2/22 16TH STREET ABIRAMI AVENUE
KAVIARASU KANNADHASAN NAGAR KODUNGIYUR
CHENNAI-600118

... PETITIONER in WP No.1223 of 2017

1 V.DHARANI (I.D.NO.308/ 2001)
MELAPAKKAM VILLAGE PATHIPUTHUR VILLAGE &
POST ARAKONAM- 631 002 NOW AT V.DHARANI
NO.4/749A IIND STREET AGAN NAGAR ARAKONAM-
631002

... PETITIONER in WP No.1708 of 2017

1 P.T. JAGADEESH KUMAR (I.D. NO.
349/2001) AJJ 437/ A RAILWAY QUTRS.
WINTERPET ARAKKONAM VELLORE DT. AT NO1/4
JOSEPH 2ND ST. EXTN. VIJAYALAKSHIMI FLATS
PAYAVANTHANGAL CH. -114

... PETITIONER in WP No.1709 of 2017

1 J.MUTHU (I.D. NO.359/2001)
NO.2/248 AGAN NAGAR PALANIPET POST
ARAKKONAM-4 NOW AT: NO.2/248 AGAN NAGAR
VENKATASHPURAM ARAKKONAM-2 VELLORE DISTRICT

... PETITIONER in WP No.234 of 2017

1 A.THIVYA RAJ I.D.NO.361/2001
NOW AT.A.THIVYARAJ S/O.V.ALEXANDER (LATE)
NO.4 IIND STREET SOMASUNDRA NAGAR
PALANIPET POST ARAKKONAM - 631 002 VELLORE
DISTRICT

... PETITIONER in WP No.241 of 2017

Vs.

1. The Presiding Officer
The Central Government Industrial
Tribunal - Cum- Labour Court
First Floor, B-wing 26 Haddows Road
Shastri Bhawan, Chennai - 600 006.

2. Union of India
Rep by its Secretary to Government
Ministry of Defence
New Delhi.

3. Union of India
Rep by its Engineer in Chief
Military Engineering Service
New Delhi 110 011.

4. The Chief Engineer - Commanding
Military Engineer Service
Southern Command
Pune Pin 411 001.

5. The Chief Engineer - Zone
Military Engineering Service
Station Road, Visakapattanam
Pin 411 001.

6. The Commanding Officer
Naval Air Station, INS Rajaji,
Arakkonam - 631 002.

7. Commander Work Engineer
SE, (Navy), Military Engineering Service
Fort Saint George, Chennai - 600 009.

8. The Garrison Engineer
Military Engineering Service,
INS Rajaji, Arakkonam - 631 002.

... Respondents in all W.Ps

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the award passed by the 1st respondent in ID.No.314 of 2001 as early as 26th Apr 2016 and award / notification on the 21st June 2016 in particular the declining of the backwages in para 16 of the award that "I am not inclined to grant the relief of back wages to the petitioners considering the circumstances" quash the particular portion of the award of no backwages to the petitioner and consequently direct the respondent employer or the management of the Military Engineering Service to pay to the petitioner the entire back wages from the date of termination on the 02.02.2000 to the date of the reinstatement as per the award dated 26.04.2016 of the 1st respondent and with interest @ 12% PA from the date of termination till the date of reinstatement filed by the petitioner and allow the present Writ Petition filed by the writ petitioner. (W.P. No 43858/2016)

To call for the records pertaining to the award passed by the respondent in I.D. Nos 369/01, 363/01, 334/01, 325/01, 352/01, 355/01, 351/01, 374/01, 320/01, 357/01, 322/01, 326/01, 337/01, 362/01, 363/01, 327/01, 335/01, 316/01, 360/01, 356/01, 331/01, 98/02, 353/01, 315/01, 308/01, 349/01, 359/01, 361/01 respectively as early as 26th April 2016, and award/notification on the 21st June 2016 in particular the declining of the backwages in para 16 of the award that 'I am not inclined to grant the relief of backwages to the petitioners considering the circumstances"quash the

particular Portion of the award of no backwages to the Petitioner and consequently direct the respondent employer or the management of the Military Engineering service to the petitioner the entire backwages from the date of termination on the 19.11.1999, 19.11.99, 02.02.2000, 02.02.2000, 19.11.1999, 19.11.1999,19.11.1999,19.11.1999,02.02.2000,19.11.1999,02.02.2000,02.02.2000,02.02.2000,19.11.1999,19.11.1999,02.02.2000,02.02.2000, 02.02.2000, 19.11.1999, 19.11.1999, 02.02.2000, 02.02.2000,19.11.1999,02.02.2000,02.02.2000,19.11.1999,02.02.2000,02.02.2000, 19.11.1999, 19.11.1999,19.11.1999 respectively to the date of the reinstatement as per the award dated 26.04.2016 of the first respondent and with interest at 12 % per annum from the date of termination till the date of reinstatement filed by the Petitioner, and allow the present Writ Petitions filed by the Writ Petitioner.(in W.P.s 44592 to 44596,44139 to 44143/16, 43851,43852,43859,43861,43860/16,259,409,410,444,235,239,240,258 /17,1223,1708,1709,234 & 241/17.)

To call for the records pertaining to the award passed by the 1st Respondent in I.D. No 358/01 as early as 26th April 2016 and award/notification on the 21st June 2016 directing the respondents for re instate the petitioners in each I.Ds in service within a month of publication of the award and that they will be entitled to continuity of service and shall be paid salary as per the regular scale from the date of reinstatement and opined that I am not inclined to grant the relief of back wages to the petitioners considering the circumstances quash the latter part of the award of no backwages to the petitioner and consequently direct the employer or the management of the Military Engineering service to the petitioner the entire backwages from the date of termination on the 19.11.1999 to the date of reinstatement as per the award date 26.04.2016 of the first respondent with appropriate compensation from the award dated 26.04.2016 till the date of reinstatement and such other orders(in W.P. 433/2017)

For Petitioner:Mr.Balan Haridas(in all W.P. 240/17)
Mr.R. Dakshinamoorthy(in W.P.240/2017)

For Respondents:R1 - Tribunal
Mr.G.Rajagopalan [For R2 to R8]
Assistant Solicitor General of India
Assisted by For Mr.J.Madanagopal Rao
Senior Central Government Standing Counsel

C O M M O N O R D E R

Mr.G.Rajagopalan, the learned Additional Solicitor General of India appearing for respondents 2 to 8 made a submission that the Central Government Industrial Tribunal cum Labour Court

passed an award on 26th April 2016 directing the respondents therein to reinstate the petitioners in each Industrial Dispute, in service within a month of publication of the award.

2.Further it is stated that the workmen are entitled to continuity of service and would be paid salary as per regular scale after reinstatement.

3.Further the learned Additional Solicitor General of India made a submission that it is an exparte award passed without the effective participation of the respondents 2 to 8/management. Thus, the respondents 2 to 8 /management had no opportunity to adjudicate the matter before the Central Government Industrial Tribunal cum Labour Court and therefore, the case may be remitted back for fresh trial, so as to conduct a full fledged effective adjudication.

4.The learned counsel appearing on behalf of the petitioner/Workman has not disputed the fact that it is an exparte award. Paragraph 7 of the award dated 26th April 2016, reads as follows:

"7.Some of the petitioners have filed Writ Petition No.36619/2004 before the Hon'ble High Court of Madras against the order of this Tribunal dismissing the applications filed by them to implead three more persons who are contractors in the party array. The case has been stayed during the pendency of the Writ Petition. The writ petition was dismissed as not pressed on 08.12.2015 and thus the say in the matters have been vacated. When the matter was taken up after disposal of the Writ Petition the respondents have failed to enter appearance in spite of postings given for their appearance. So Respondents have been set exparte."

5.Thus, it is made it clear that respondents 2 to 8/management had not participated in the adjudicative process and they remained exparte. At this stage, this Court need not go into the merits and demerits of the case, since respondents 2 to 8/management was set exparte and the same was not disputed. Any matter under trial before the Central Government Industrial Tribunal cum Labour Court has to be adjudicated in full and a complete adjudication will alone provide a better solution and decision on the issues involved in the dispute.

6.That apart, this Court cannot now go into all the documents and evidences to be produced before the Central Government Industrial Tribunal cum Labour Court for effective adjudication of the matter. This being the view of this Court, the merits and demerits and the grounds raised in this writ

petition, at this stage, need not be adjudicated by this Court and the ends of justice will be met if the matter is remanded back for a full fledged complete adjudication in all respects.

7. Accordingly, the common award passed by the Central Government Industrial Tribunal cum Labour Court, Chennai dated 26th April 2016 passed in Industrial Disputes bearing I.D.Nos.308/2001 314/2001 315/2001 316/2001 320/2001 322/2001 325/2001 326/2001 327/2001 332/2001 333/2001 334/2001 335/2001 337/2001 & 98/2002 are set aside and the matter is remitted back to the Central Government Industrial Tribunal cum Labour Court, Chennai for re-trial and respective parties are at liberty to file necessary applications before the Central Government Industrial Tribunal in all respects for effective adjudication of the matter.

8. Now, it is brought to the notice of this Court that the Tribunal is not functioning. However, taking note of the long pendency of these cases, the Tribunal shall dispose of the same as early as possible, preferably within a period of six months from the date of appointment of the Presiding Officer in the Tribunal.

9. In fine, these writ petitions are disposed of with the above directions. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-
Deputy Registrar

True Copy

Sub-Assistant Registrar

may a

To

1. The Presiding Officer
The Central Government Industrial
Tribunal - Cum- Labour Court
First Floor, B-wing 26 Haddows Road
Shastri Bhawan, Chennai - 600 006.
2. Union of India
Rep by its Secretary to Government
Ministry of Defence
New Delhi.

3. Union of India
Rep by its Engineer in Chief
Military Engineering Service
New Delhi 110 011.
 4. The Chief Engineer - Command
Military Engineer Service
Southern Command
Pune Pin 411 001.
 5. The Chief Engineer - Zone
Military Engineering Service
Station Road, Visakapattanam
Pin 411 001.
 6. The Commanding Officer
Naval Air Station, INS Rajaji,
Arakkonam - 631 002.
 7. Commander Work Engineer
SE, (Navy), Military Engineering Service
Fort Saint George, Chennai - 600 009.
 8. The Garrison Engineer
Military Engineering Service,
INS Rajaji, Arakkonam - 631 002.
- +5 Ccs to Ms.R. Radhika, Advocate sr 61261.

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RV(CO)
SP(20/11/2017)

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