

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 07.12.2018

CORAM :

THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No. 10572 of 2013

V.Saravana Bavan

... Petitioner

Vs

The Assistant Executive Engineer,
Cavery Modernisation Sub Division,
Public Works Department,
Myladuthurai,
Nagappatinam District.

... Respondent

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus directing the respondent to reinstate the petitioner in service as per the award dated 09.12.1994 made in I.D.No.318 of 1992 and regularise his service as per G.O.(MS).22 dated 28.02.2006 of Personal and Administrative Reforms (F) Department.

For Petitioner : Mr.K.C.Karl Marx

For Respondent : Mr.B.Anand
Government Advocate

O R D E R

The instant writ petition has been filed for issuance of a writ of Mandamus directing the respondent to reinstate the petitioner in service as per the award dated 09.12.1994 made in I.D.No.318 of 1992 and regularise his service as per G.O.(MS).22 dated 28.02.2006 of Personal and Administrative Reforms (F) Department.

2. The petitioner was working as a Watchman with the respondent from 01.04.1986. His services are terminated on 01.12.1987. He raised an Industrial Dispute in ID.No.318 of 1992 before the Labour Court, Cuddalore. The Labour Court at Cuddalore (Myladuthurai Camp) on 09.12.1994 allowed the claim of the petitioner and directed the respondent to reinstate the petitioner with continuity of service but without back wages and other concessions.

3. The order of the Labour Court was unsuccessfully challenged before this Court in W.P.No.15041 of 1995. This Court while admitting the said writ petition directed the respondent to pay a sum of Rs.25,200/- as Section 17(B) wages payable under the Industrial Dispute Act and further directed the respondent to continue to pay Rs.630/- per month as Section 17 (B) wages till disposal of the writ petition. The interim order was also unsuccessfully challenged in writ appeal.

4. Since the petitioner was not reinstated in service and the award was not implemented, the petitioner has filed the instant writ petition for a direction to the respondent to reinstate the petitioner as per the award dated 09.12.1994 in I.D.No.318 of 1992 and also regularization in G.O.Ms.No.22 dated 28.02.2006. The petitioner has reached the age of superannuation during the pendency of the proceedings.

5. Heard the counsel for the parties.

6. The counsel for the respondent states that the 17(B) wages has been paid and this has not been denied by the counsel for the petitioner. The learned counsel for the petitioner would submit that the award has to be implemented in full and the petitioner should be paid from the date of reinstatement till his retirement. On the other hand, the learned counsel for the State would argue that the petitioner was appointed only on daily wages between 01.04.1986 to 01.12.1987 and since his work was not continuous in nature, no wages need be paid to him from the date of reinstatement till the date of superannuation.

7. I am afraid argument of the counsel for the respondent cannot be accepted. The award specifically directs the respondent to reinstate the petitioner in service without back wages. The award is like the decree of the Court and a Executing Court cannot go behind the decree. The decree has to be satisfied fully. The petitioner is therefore entitled to wages from the date of reinstatement till the date of his superannuation. The respondent is directed to pay the amount to the petitioner within eight weeks from the date of receipt of a copy of this order. The writ petition stands allowed with the above terms.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

gsp/pkn

To

The Assistant Executive Engineer,
Cavery Modernisation Sub Division,
Public Works Department,
Myladuthurai,
Nagappatinam District.

+1 cc to Mr.Karl Marx, Advocate Sr.No.84634

+1 cc to The Government Pleader, Sr.No.85080

W.P.No. 10572 of 2013

SPD(CO)
CSL/24.01.2019