

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2018

CORAM:

THE HON'BLE Dr. JUSTICE S.VIMALA

Writ Petition No.1036 of 2016
& WMP Nos.802 of 2016, 33500 & 33514 of 2018

1. Assistant Elementary Educational Officer,
Thandrampet, Thiruvannamalai
 2. The District Educational Officer,
Thiruvannamalai
 3. The Chief Educational Officer,
Thiruvannamalai
- ... Petitioners
- Vs.
1. The Presiding Officer,
Hon'ble Additional Labour Court,
Vellore
 2. R.Chandra
- ... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the first respondent and to quash the order of the first respondent in computation petition No.255/2013 dated 23.12.2014.

For Petitioner : Mr. P.Raja

For Respondents : Mr. S.N.Ravichandran, for R-2

O R D E R

The Additional Labour Court, Vellore, in C.P.No.255 of 2013 quantified the monetary benefit payable to the part-time sweeper, Chandra, (the second respondent herein) for a sum of Rs.90,117/- and directed the Management to pay the amount within a period of eight weeks from the date of receipt of copy of the Award. This award is dated 23.12.2014, which is under challenge in this writ petition by the Management.

Brief facts:-

2. The second respondent herein was employed by the order of appointment dated 01.12.1983. She joined as a Contingency Worker with the monthly wage of Rs.60/- per month. The Government in G.O.Ms.No.325, dated 01.10.2010, ordered time scale of pay i.e., Rs.1,300-3,000/- + Rs.300/-.

2.1. Invoking this benefit, more than 79 workers who are similarly placed as that of this workman, moved this Court in W.P.No.27607 of 2010 and this Court directed the petitioners therein to submit individual representations to the Director of School Education within 10 days from the date of receipt of copy of that order. This Court, in the said writ petition, also directed the authorities to consider the representations in the light of the earlier orders passed by this Court in the similar writ petitions.

3. It is the case of the second respondent that she is entitled to the benefits of the order passed by this Court in favour of the similarly placed persons. So claiming, she filed the Computation Petition, which was allowed by the Labour Court.

3.1. The learned counsel appearing for the Management would submit that the workman is not eligible for the grant of monetary benefits. The learned counsel further submitted that: (a) initial service entry of the workman was unauthorized; (b) the appointment itself was not regular; (c) the workman approached this Court only in the year 2013; and (d) G.O.Ms.No.385 is not applicable to the case of the workman.

3.2. The same contention has been raised by the Management before the Labour Court also.

3.3. The Labour Court has given a finding that the said Government Order speaks about the special time scale of pay only in respect of the employees who are receiving consolidated pay and as this employee was also receiving consolidated pay, the G.O.Ms.No.385 is applicable to the case of the employee and therefore, the workman is entitled to the time scale of pay as mentioned in the Government Order.

3.4. This Court is of the view that the said finding by the Labour Court is absolutely correct and it cannot be interfered with.

4. The Labour Court has also considered the fact that the Government, in the said Government Order, has granted the benefit of Basic Pay, Grade Pay and Dearness Allowance, but not the House Rent Allowance and Medical Allowance.

5. Even though the appointment order was dated 01.12.1983, there is an admission by the Management that the workman had

been working even prior to that as a part-time sweeper. When she had been working for such a long period, now the Management has chosen to question the availability of vacancy, the authority to enter into the service and non-availability of monetary benefits to part-time employees, etc.,

6. The simple claim made by the second respondent is that for the work done by her, she must be paid. Her payment is demanded in accordance with the Government Order providing special time scale of pay for the persons who are receiving consolidated pay. It is not in dispute that the second respondent was receiving only consolidated pay and she was only a part-time sweeper.

7. Further, it is not the case of the Management that without authorization, she entered into the premises and started using broomstick. It is also not the case of the Management that objecting to the work, they took any action against the second respondent. Therefore, instead of asking a part-time sweeper as to the whether her entry was authorized or not, whether the appointment was regular or not, whether there was vacancy or not, it is better for the Management itself to explain to this Court as to why and how a person was permitted to work, when there was no vacancy and how there was an authorization to do the work. After extracting the work, it is not open to the Management to state that the workman is not entitled to the wages. The denial on the part of the petitioner to make legitimate payment to the second respondent would amount to unfair labour practice and it cannot be permitted.

8. In view of the aforesaid reasonings, the award passed by the Labour Court has to be confirmed and it is confirmed accordingly.

8.1. So far as regularization of the second respondent is concerned, the petitioner-Management is directed to consider the claim, in terms of the earlier order passed by this Court in W.P.No.26707 of 2010 and to pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order.

9. With the above directions, this writ petition is disposed of. No costs. Consequently, the connected WMPs are closed.

Sd/-

Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

srk

To

1. The Presiding Officer,
Additional Labour Court,
Vellore

+1cc to the Government Pleader, S.R.No. 76739

W.P.No.1036 of 2016
& WMP Nos.802 of 2016, 33500 & 33514 of 2018

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