

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2018

CORAM

THE HONOURABLE Mr.JUSTICE V.PARTHIBAN

W.P.No.14447 of 2012 and
M.P.No.2 of 2012

1.The Managing Director,
Tamil Nadu Water Supply Board,
Chepauk, Chennai-5.
2.The Executive Engineer,
Tamil Nadu Water Supply Board,
Chepauk, Chennai-5. Petitioners

Vs

1.K.Murugesan (deceased)

2.The Presiding Officer,
Labour Court, Salem.

3.Alamelu

4.Arun

5.Harish (minor)

6.Vijay (minor)

R3 to R6 substituted as LR's in the place of deceased
1st respondent as per order dated 04.07.2012 in
M.P.No.3 of 2012 in W.P.No.14447 of 2012 ... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari, to call for the records relating to impugned award in I.D.No.467 of 1998, passed by the 2nd respondent dated 20.12.2010 and quash the same.

For Petitioners : Mr.S.Eraskine Leo for
Mr.S.Karthikeyan

For Respondents : Mr.K.V.Shanmuganathan for RR3 & 4
: Court for R2
: No appearance for RR5 & 6

O R D E R

Heard Mr.S.Eraskine Leo, learned counsel for the petitioners and Mr.K.V.Shanmuganathan, learned counsel appearing for the third and fourth respondents.

2. The petitioners have approached this Court, seeking the following relief,

"To issue a writ of Certiorari, to call for the records relating to impugned award in I.D.No.467 of 1998, passed by the 2nd respondent dated 20.12.2010 and quash the same. "

3. The case of the petitioners is as follows:-

The first respondent workman was employed under the petitioners' Board as Watchman. He was appointed on 01.09.1988 and discharged from service on 01.06.1990. However, while discharging the first respondent workman, the petitioners' Management did not follow the provisions of the Industrial Dispute Act, particularly, Section 25(f) of the Act. Therefore, an industrial dispute was raised before the second respondent-Labour Court, Vellore, which was subsequently transferred to Salem Labour Court, after its formation. The industrial dispute was numbered as I.D.No.467 of 1998.

4. Since there was no representation on behalf of the Management, an exparte award was passed. Against which, a writ petition was filed in W.P.No.15119 of 2000, seeking to set aside the exparte award dated 25.03.1999, this Court by order dated 25.02.2010, set aside the exparte order and remanded the matter back to the Labour Court viz., the second respondent herein.

5. After the remand by this Court, the second respondent-Labour Court considered the rival submissions of both the workman and the Management and finally passed an award on 20.12.2010 in I.D.No.467 of 1998, directing reinstatement of the workman in service with continuity of service along with back wages and other attendant benefits. The Management was also directed to pay cost of Rs.1000/- to the workman. The said award is put to challenge in the present writ petition.

6. The learned counsel for the petitioners' Management would submit that the workman had worked only for 89 days and therefore, he was not entitled to protection under Section 25 (f) of the Industrial Dispute Act. He would also urge that the post in which the workman had worked is not a sanctioned post. Therefore, the question of reinstatement would not arise at all.

7. Upon notice, learned counsel appearing for the third and fourth respondents, entered appearance and made his submissions.

8. The submission made on behalf of the petitioners' Management is not supported by any piece of evidence which was made available before the Labour Court, as the proceedings would disclose that no oral evidence was let in nor any documents marked on behalf of the Management. On the other hand, the documents filed on behalf of the workman, fully

established the factum that the first respondent workman had worked for two years from 1988 to 1990 and therefore, entitled to protection under Section 25(f) of the Industrial Dispute Act.

9. While discharging the first respondent, the Labour Court found that the Management had not complied with the mandatory provision of Section 25(f) of the Industrial Disputes Act. Therefore, the Labour Court rightly interfered with the discharge and ordered reinstatement with back wages and other attendant benefits.

10. This Court on the basis of the pleadings and materials placed on record, does not find any iota of scope for interfering with the award passed by the Labour Court, since no materials whatsoever was placed either before the Labour Court or before this Court calling for intervention except making oral submissions that the workman had worked only for 89 days. No evidence has been produced for accepting the case of the Management. On the other hand, the findings of the Labour Court is very clear that the workman had worked for two years as disclosed in Exhibit P6, which was marked before the Labour Court.

11. In view of the above, this Court does not find any infirmity in the order passed by the second respondent - Labour Court. Therefore, the writ petition is devoid of merits and substance and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

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Sub Assistant Registrar

gsk
To

The Presiding Officer,
Labour Court, Salem.

+1cc to Mr.S.Eraskine Leo, Advocate Sr.No.5039
+1cc to Mr.K.V.Shanmuganathan, Advocate SR.No.4898

sm:6.2.2018

W.P.No.14447 of 2012