

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 05.02.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.A. (MD) No.174 of 2018
and
C.M.P. (MD) No.974 of 2018

The Managing Director,
Tamilnadu Water Supply and Drainage Board (TWAD),
No.31, Kamarajar Salai,
Chepauk, Chennai-5. ... Appellant/Respondent

Vs.

1.S.Sahul Hameed
2.R.Nattarayan
3.N.R.Sundaramoorthy
4.A.Karuppannan
5.K.Sivasubramanian
6.M.Sivagnanam ... Respondents/Petitioners

PRAYER: Appeal filed under Clause 15 of the Letters Patent, praying to set aside the order passed by this Court in W.P.(MD) No.6033 of 2012 dated 29.11.2016.

Prayer in WP(MD). 6033/ 2012 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Pleased to issue a Writ of Certiorarified Mandamus, calling for the records connected with the impugned order passed by the respondent in his letter No.22012/Pani/Niru/A1/2011 dated 02.08.2011 rejecting the claim of the petitioner and quash the same and consequently direct the respondent to extend the benefit of award of the Labour Court in I.D.No. 147 of 1993 in respect of the category of Drillers to the petitioners herein.

For Appellant : Ms.Porkodi Karnan

For Respondents : Mr.R.Renga Ramanujam

**JUDGMENT**

(Judgment of the Court was delivered by M.SATHYANARAYANAN, J.)

By consent, the writ appeal is taken up for final disposal.

2. Mr.R.Rengaramanujam, learned Counsel accepts notice on behalf of the respondents 1 to 6/ writ petitioners.

3. The facts leading to the filing of the writ appeal would have been narrated in detail and extenso in the impugned order dated 29.11.2016, passed in W.P.(MD)No.6033 of 2012 and therefore, it is not necessary to restate the facts once again, except to narrate the relevant facts for disposal of this writ appeal.

4. The Tamil Nadu Water Supply and Drainage Board Employees Association (CITU), 6A-1, Parasakthi building, Tirunelveli -1, has raised an industrial dispute in I.D.No.117/1993, on the file of the Labour Court, Tirunelveli against the Superintending Engineer, Tamil Nadu Water Supply and Drainage Board (TWAD), Trichy as well as against the Managing Director of the said Organization, raising industrial dispute, as to whether the pay scale fixed in respect of 19 employees, who were employed under the category of Helper, Rewinder, Assistant Rewinder, Driller, Assistant Driller, Auto-electrician, Air-compriser and Operator, in terms of B.P.Ms.No.505, dated 12.12.1986 is correct or not and whether they are entitled to any other benefit. The Labour Court, Tirunelveli, vide order dated 07.11.1996, has held that they are entitled to the benefits of the said Government Order with effect from 01.04.1986 in a particular time scale of pay.

5. The writ petitioners/respondents herein, claiming the benefit in terms of the said award, came forward to approach the respondent/appellant and their requests/representations were rejected by the proceedings of the respondent, dated 02.08.2011. The respondents/writ petitioners, aggrieved by the rejection of their requests, filed W.P.(MD)No.6033 of 2012 and in the impugned order dated 29.11.2016, a single Bench of this Court, has allowed the writ petition holding that the writ petitioners are similarly placed like that of the employees who had approached the Labour Court through their association and challenging the legality of the same, the present writ appeal is filed by the official respondent in the writ petition.

6. The learned Counsel appearing for the appellant would submit that admittedly at the time of passing of the award by the Labour Court, Tirunelveli, the respondents/writ petitioners were employed as Helpers and Rig Helpers and only in terms of Services of TWAD, dated 04.12.1997, they have been re-designated as Drillers and as such, they are entitled to financial and other benefits only from the date of the issuance of the



proceedings dated 04.12.1997 and the learned Judge has overlooked the said material aspect and hence, prays for appropriate orders.

7. Per contra, the learned Counsel appearing for the respondents/writ petitioners would submit that since the respondents/writ petitioners were re-designated as Drillers and Assistant drillers, they are also entitled to the benefit of the award dated 07.11.1996, in I.D.No.117 of 1993, passed by the Labour Court, Tirunelveli and prays for dismissal of this writ appeal.

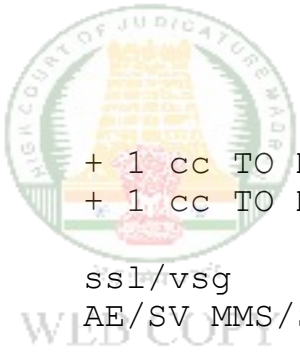
8. This Court has carefully considered the rival submissions and perused the materials placed on record.

9. Admittedly, at the time of passing the award dated 07.11.1996, in I.D.No.117 of 1993, by the Labour Court, Tirunelveli, the respondents/writ petitioners were not working as Drillers/Assistant Drillers, but they were working as Helpers and Rig Helpers. The appellant/TWAD has passed B.P.Ms.No.547, dated 04.12.1997, redesignating the said post as Drillers and Assistant Drillers and conferred the consequential benefits arising out of the said proceedings from the date of the said proceedings. Since the respondents/writ petitioners were not working in that capacity of Drillers/Assistant Drillers at the time of passing the award in I.D.No.117 of 1993, dated 07.11.1996 by the Labour Court, Tirunelveli, in the considered opinion of this Court, they are not entitled for the financial and other benefits from the date of 01.04.1986. Hence, on that short ground, the impugned order passed in the writ petition warrants interference.

10. In the result, the Writ Appeal is partly allowed and the impugned order dated 29.11.2016, passed in W.P.(MD)No.6033 of 2012 is set aside, insofar as directing the appellant/respondent to confer the benefits to the respondents/writ petitioners from the date of 01.04.1986. Accordingly, the order passed in the writ petition is modified to the effect that the respondents/writ petitioners are entitled to the financial and other benefits from the date of issuance of the proceedings in B.P.Ms.No.547 of TWAD, dated 04.12.1997 and the appellant/respondent is directed to confer all the benefits accruing on the date of the said proceedings dated 04.12.1997 within a period of six weeks from the date of receipt of a copy of this order and communicate the decision taken to the respondents/writ petitioners. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-I)



+ 1 cc TO Mr.S.Govindan, Advocate in SR No. 46293
+ 1 cc TO Ms.Porkodi Karnan , Advocate in SR No. 46337

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AE/SV MMS/SAR4/12.02.2018/4P/3C

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