



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 07.02.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.16304 of 2014

C.Madasamy

.... Petitioner

Vs.

1.The Presiding Officer,
Labour Court, Tirunelveli.

2.The Assistant Director,
Office of the Assistant Director,
Rural Development,
Collectorate Campus, Tirunelveli - 9.

3.Block Development Officer,
(Village Panchayat),
Ambasamuthiram Panchayat Union,
Ambasamuthiram - 627 401.

4.P.Rachal, President,
Sivanthipuram Village Panchayt,
Pulavanpatti,
Vikramasingapuram - 627 425,
Tirunelveli District.

... Respondents

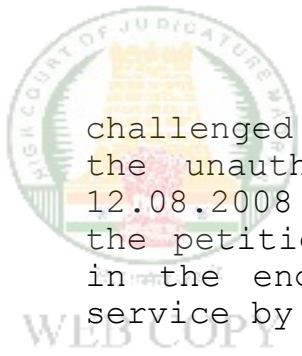
Prayer : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the award dated 30.04.2014 passed by the first respondent in I.D.No.26 of 2013 on the file of the Labour Court, Tirunelveli and quash the same and consequently direct the fourth respondent to reinstate the petitioner with continuity of service with all monetary and attendant benefits.

For Petitioner
For Respondents

: Mr.R.Pon Karthikeyan
: Mr.J.Gunaseelan Muthaiah,
Addl., Govt. Pleader for R2
Mr.S.Satheeshkumar for R3
No appearance for R4
R1 - Labour Court

ORDER

The petitioner was appointed as a Sanitary Worker in the fourth respondent panchayat on 01.06.2005. The petitioner's services were also subsequently regularised. The petitioner is a physically



challenged person. He has also hearing disability. On account of the unauthorized absence for about three months from 12.08.2008 to 29.11.2008, disciplinary action was initiated against the petitioner. It appears that the petitioner did not participate in the enquiry also. The petitioner was finally dismissed from service by order dated 29.12.2008.

2.The case of the petitioner is that he was not served in any of the proceedings. Be that as it may, he raised an industrial dispute in I.D.No.26 of 2013 before the Labour Court, Tirunelveli. The Labour Court, Tirunelveli by order dated 30.04.2014 dismissed the petition filed by the petitioner. Questioning the said award, this writ petition has been filed.

3.Heard the learned counsel on either side.

4.The learned counsel for the petitioner on instructions from the petitioner would submit that he shall forego the claim of backwages. This submission of the learned counsel for the petitioner is recorded. Section 11 (A) of the Industrial Disputes Act, 1947 confers power on the Labour Court to modify the punishment imposed on the workmen and impose lesser punishment in lieu of dismissal if the circumstances of the case require.

5.This Court is of the view that the power conferred on the Labour Court ought to have been exercised by the Labour Court. The charge against the petitioner is one of unauthorised absence for a few weeks. The petitioner is in his affidavit filed in support of this writ petition has given reasons as to why he could not attend duty. This Court also takes into consideration the fact that the writ petitioner is a physically challenged person and he belongs to Arunthathiyar Community.

6.Taking note of all these mitigating circumstances, this Court is of the view that the order of dismissal can be set aside and the petitioner is directed to be reinstated in service. Sivanthipuram Village Panchayat is under the control of the concerned Special Officer. The concerned officer is directed to reinstate the petitioner in service forthwith. It is made clear that the petitioner herein will not be entitled to any claim for back-wages. The period in question shall be treated as one of duty for all other purposes. Accordingly, this writ petition is allowed. No costs.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

<https://hcservices.ecourts.gov.in/hcservices/>

1.The Presiding Officer, Labour Court, Tirunelveli.



2.The Assistant Director, Office of the Assistant Director,
Rural Development, Collectorate Campus, Tirunelveli - 9.

3.Block Development Officer, (Village Panchayat),
Ambasamuthiram Panchayat Union,
Ambasamuthiram - 627 401.

+1cc to M/S.R.Pon Karthikeyan, Advocate SR.No. 46960

+1cc to Special Government Pleader, SR.No. 47202

W.P (MD) No.16304 of 2014
07.02.2018

skm

JM/TE/SAR 4/23.07.2018/3P/6C