



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WEB COPY

W.P.(MD)Nos.3479 to 3482 of 2015andW.P(MD)Nos.4307 to 4310 of 2018andW.M.P(MD)Nos.4413 to 4420 of 2018

P.MUTHU	... Petitioner in WP(MD). 3479/ 2015
T.M. ALAGAMMAL	... Petitioner in WP(MD). 3480/ 2015
P.RAKKAMMAL	... Petitioner in WP(MD). 3481/ 2015
SEENIYAMMAL	... Petitioner in WP(MD). 3482/ 2015

Vs.

The Management
Forest Ranger,
Forest Range Division,
Madurai at Arasanur,
Thirumanjola-630 056,
Sivagangai District.

... Respondent
in all WP.(MD).Nos.3479 to 3482 of 2015

Prayer in WP.(MD).Nos.3479 to 3482 of 2015:

Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus to direct the respondent to reinstate the petitioner into service along with continuity of service, back-wages and other attendant benefits in view of the award passed by the Labour Court, Madurai in I.D.No.48 of 2008, dated 10.09.2013, I.D.Nos.50, 51, 49 of 2008, dated 05.07.2013 respectively by considering the representations given by the petitioner dated 05.12.2013 within a period stipulated by this Court.

For Petitioner	: Mr.N.Sathish Babu
For Respondent	: Mr.J.Gunaseelanmuthiah Addl. Govt. Pleader

W.P.(MD)Nos.4307 to 4310 of 2018:

THE MANAGEMENT,
FOREST RANGER, FOREST RANGE DIVISION,
MADURAI AT ARASANUR,
THIRUMANSOLAI 630 056,
SIVAGANGAI DISTRICT.

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

... Petitioner
in all WP(MD). 4307 to 4310 2018



- Vs. -

1 THE PRESIDING OFFICER,
LABOUR COURT, MADURAI.

... 1st Respondent
in all WP(MD). 4307 to 4310 2018

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2 P.MUTHU ... 2nd Respondent in WP(MD). 4307/ 2018

2 T.M.ALAGAMMAL ... 2nd Respondent in WP(MD). 4308/ 2018

2 P.SEENIAMMAL ... 2nd Respondent in WP(MD). 4309/ 2018

2 P.RAKKAMMAL ... 2nd Respondent in WP(MD). 4310/ 2018

Prayer in WP(MD). 4307 to 4310 of 2018:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari calling for the entire records relating to the impugned award passed by the 1st respondent Presiding Officer, Labour Court, Madurai in I.D.No.48 of 2008 dated 10.09.2013, I.D.Nos.50, 49 & 51 of 2008, dated 05.07.2013 and to quash the same.

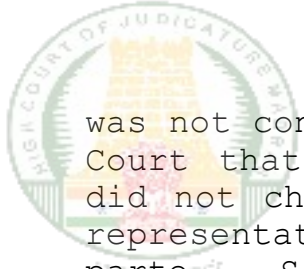
For Petitioner : Mr.J.Gunaseelan Muthian
Additional Government Pleader
in WP(MD). 4307 to 4310 2018

For Respondents : Mr.N.Sathish Babu
For R2 in WP(MD). 4307 to 4310 2018

COMMON ORDER

The writ petitioner in W.P(MD)Nos.3479 to 3482 of 2015 seeks implementation of the awards passed in their favour by the Labour Court, Madurai. The awards, which are sought to be implemented, have been questioned in W.P(MD)Nos.4307 to 4310 of 2010. Both are heard together.

2.The case as set out in the I.Ds at the instance of the workmen is that they are working in Social Forestry and Nursery at Arasanur from 1995 and that they had worked continuously for more than 240 days in an year and for more than 480 days in two years. They were paid wages at the rate of Rs.70/- per day. The fact that they were working is reflected in the entries made in the attendance register and salary register which are in the custody of the Management. They were not allowed to work from 01.01.2008. Contending that the oral termination is illegal, they moved the Labour Officer for conciliation. The Labour Officer sent a failure report to the Government. Thereafter, the workmen moved the Labour Court and they were taken on file in I.D.Nos.48 to 51 of 2008 on the file of the Labour Court, Madurai. Though the Forest Department filed its counter opposing the prayer made in the I.D, the matter



was not contested. It is set out in the awards passed by the Labour Court that despite grant of several opportunities, the Management did not choose to adduce any evidence and that since there was no representation on their side, they were called absent and set ex parte. Since the stand taken by the workmen was unchallenged, the Labour Court had no option but to hold that the oral termination was illegal and directed that they were to be reinstated with continuity of service with backwages and all other benefits. The awards were passed on 10.09.2013. To enforce the same, the workmen filed W.P (MD)Nos.3479 to 3482 of 2015.

3.As rightly contended by the learned Additional Government Pleader appearing for the Government, the respondents in the I.D before the Labour Court was the Forest Department itself. The Hon'ble Full Bench of this Court in R.Rathakrishnan vs. The Deputy Registrar of Co-operative Societies reported in 2007(5) CTC 369, held that the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 will not apply in the case of illegal or irregular employment in the Government.

4.In matters of public employment, the recruitment must be in the manner laid down in the statute. It may be that the workmen concerned were doing some work in the Forest Range Division at Arasanur. But then on the ground that they had been working for 240 days per years or 480 days in 24 consecutive months, they cannot be directed to be regularised. The relief of regularization can be granted only if there is a scheme and the applicant fulfilled the parameters set out in the said scheme. In this case, such is not the case. The Labour Court has chosen to allow the I.Ds filed by the workmen and passed awards in their favour only because the respondent in the I.D did not choose to contest the matter, but remained ex-parte.

5.In such view of the matter, the award impugned in these writ petitions have to be necessarily set aside.

6.In the result, the writ petitions in W.P(MD)Nos.4307 to 4310 of 2018 are allowed and W.P(MD)Nos.3479 to 3482 of 2015 are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(RTI)

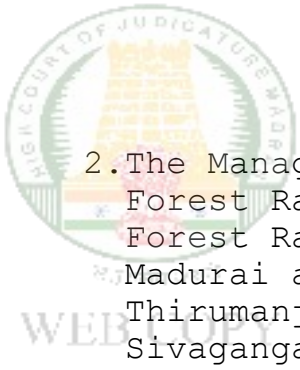
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Sub Assistant Registrar(CS-III)

To

1.The Presiding Officer,
Labour Court, Madurai.

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



2.The Management
Forest Ranger,
Forest Range Division,
Madurai at Arasanur,
Thirumanjolai-630 056,
Sivagangai District.

+1cc to M/S.N.sathish Babu, Advocate SR.No. 52396
+1cc to Special Government Pleader, SR.No. 52910 & 52922

W.P.(MD)Nos.3479 to 3482 of 2015
and
W.P(MD)Nos.4307 to 4310 of 2018
and
W.M.P(MD)Nos.4413 to 4420 of 2018
01.03.2018

skn
JM/KAK/SAR 3/20.08.2018/4P/5C