



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.03.2018

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD) No.10165 of 2016

and

W.M.P.(MD) No.7941 of 2016

1.The Chief Engineer,
Trichy Region / TANGEDCO,
Thennur,
Trichy - 620 017.

2. The Superintending Engineer,
Trichy Electricity Distribution Circle,
TANGEDCO,
Trichy - 20.

3. The Assistant Executive Engineer,
Operation and Maintenance,
TANGEDCO,
Thuvakudy,
Trichy - 625 015.

... Petitioners

Vs.

1. The Presiding Officer,
Labour Court, Trichy.

2.M.S.Mani

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Ceriorari, to call for the records relating to the impugned award passed by the first respondent vide order dated 26.02.2014 in I.D.No.8 of 2011 and quash the same.

For Petitioner : Mrs.S.Srimathy for
Mr.S.M.S.Johny Basha

For R-2 : Miss.Amala for
Mr.T.Cibi Chakraborty

For R-1 : Labour Court

O R D E R

The second respondent herein was employed in TANGEDCO as Helper in the year 1998. During 2001, he got promotion as Wire man. He was dismissed from service by order dated 21.08.2004. Challenging the order of dismissal, the second respondent herein filed W.P.(MD)No.7445 of 2007. This Court relegated the second respondent herein to go before the Labour Court. The said order was unsuccessfully challenged in W.A.(MD)No.587 of 2008. Thereafter, the second respondent herein raised I.D.No.8 of 2011 before the Labour Court, Tiruchirappalli. The Labour Court, by award dated 26.02.2014 directed reinstatement of the second respondent herein, but denied him the benefit of back wages. The said award was challenged in the Writ Petition.

2.Heard the learned counsel on either side.

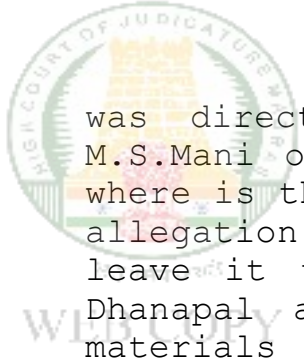
3.The Principal charge against the second respondent herein is one of impersonation. According to the writ petitioner/ Management, the second respondent is a coolie and his actual name is Dhanapal. It is true that one M.S.Mani was employed as contract labour and he was directed to be absorbed by virtue of the recommendation of Justice.V.Khalid Commission. According to the Management, one Danapal obtained certificate as if he was M.S.Mani and that is how he gained entry into service. Therefore, he was rightly removed from service. According to the Management, the second respondent herein never worked a contract labour.

4.This Court went through the entire materials on the record.

5.The learned counsel appearing for the workman placed reliance based on materials marked before the Labour Court to prove that the second respondent is known as M.S.Mani @ Dhanapal. Both refer to one and the same person.

6.The learned counsel appearing for the writ petitioner drew the attention of this Court to the call letter issued by TNEB dated 06.09.1997 addressed to Mani S/o.Murugu Subramanian, Old GandharvaKottai Post, Gandharvakottai Taluk, Pudukottai. If the second respondent herein is Dhanapal as claimed by the Management, he would not be able to enclose a copy of the said call letter. The second respondent has also enclosed copy of the Community Certificate. More than anything else the local Tahsildar as well as Village Administrative Officer have certified that M.S.Mani and Dhanapal are one and the same.

7.On the other hand, before the Labour Court, the TNEB Management did not adduce any evidence to disprove the stand taken by the workman. If the second respondent M.S.Mani and Dhanapal are different and it was only M.S.Mani, who was employed in TNEB, who



was directed to be absorbed by Khalid Commission, the said M.S.Mani ought to be existing in this universe. The question is where is this Mani then? The Management cannot be simply thrown an allegation of impersonation against the second respondent and leave it there. The workman has placed materials to show that Dhanapal and Mani are one and the same. There is no contra materials furnished by the Management to report the aforesaid claim. Therefore, Labour Court was justified in accepting the stand of the second respondent. More than anything else, the labour Court has only awarded continuity of service and denied back wages and therefore, this Court is of the view, there is no reason to interfere with the order passed by the Labour Court.

8.This Writ Petition is dismissed accordingly. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(Crl side)

/True Copy/

Sub Assistant Registrar

To

The Presiding Officer,
Labour Court, Trichy.

+ 1 cc TO Mr.S.M.S.Johnny Basha , Advocate in SR No. 58095
+ 1 cc TO M/S.Isaac Chambers , Advocate in SR No. 58307

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AE/SV MMS/SAR1/14.05.2018/3P/4C

W.P. (MD) No.10165 of 2016

26.03.2018