



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.08.2018

CORAM:

THE HONOURABLE Mr.JUSTICE S.VAIDYANATHAN

W.P.(MD)No.18979 of 2018

and

W.M.P(MD)Nos.16814 of 2018

WEB COPY

The Block Development Officer,
(Village Panchayats)
Sivakasi Panchayat Union,
Srivilliputhur Road,
Sivakasi Post - 626 124
Virudhunagar District.

... Petitioner

Vs.

1.The President,
Enjaar Village Panchayat,
Enjaar Post,
Sivakasi Taluk,
Virudhunagar District.

2.V.Thangeswaran

... Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records in pursuant to the impugned award dated 13.06.2012 made in C.P.No.11 of 2012 on the file of the Labour Court, Madurai and quash the same.

For Petitioner : Mr.M.Saravanakumar

ORDER

The petitioner seeks for issuance of a Writ of Certiorari, to call for the records in pursuant to the impugned order, dated 13.06.2012, made in C.P.No.11 of 2012, on the file of the Labour Court, Madurai and quash the same.

2. The writ petition is taken up for final disposal at the stage of admission itself.

3. The case of the petitioner is that the 2nd respondent herein was engaged by the 1st respondent's Village Panchayat, to operate the motor, to pump the water in the over tank and his engagement is neither permanent nor for a perennial work. Thereafter, without any intimation, the 3rd respondent left the job on 01.03.2010. After a lapse of 1-1/2 years, the 3rd respondent filed a claim petition before the 1st respondent on 12.10.2011 under Section 33(C)(2) of Industrial Disputes Act, with the prayer to pay the arrears of Dearness Allowance, which he is eligible as per G.O.Ms.No.377, dated 01.04.1992 and the same was allowed as ex-parte. It is the further case of the petitioner that the 1st respondent failed to consider the



fact that the petition under the Industrial Disputes Act filed by the 3rd respondent is not at all maintainable, as the Village Panchayat is not covered under the definition of the establishment under the provisions of the Industrial Disputes Act.

4. Heard the learned counsel for the petitioner and perused the materials available on record.

5. The Labour Court has computed and awarded a sum of Rs.66,660/- towards Dearness Allowance along with costs of Rs.500/- to the 3rd respondent herein. The contention of the Management is that it is an ex-parte order and that the worker has colluded with the officials and he gets the aforesaid amount. Admittedly, the petitioner has not filed any petition before the Labour Court to recall the ex-parte order passed by the Labour Court. From the date of the order, more than four years have gone by and now the Management has come forward challenging the said order to set aside the same on various grounds. Apart from that, it is the contention of the petitioner that provision of the Industrial Disputes Act is not applicable to the Management and he also drew the attention of the Court to the Memorandum, wherein G.O.(Ms)No.1403, Labour Welfare, dated 26.06.1984, has been referred to. Even going by the Memorandum, it is not that the provision of the I.D.Act that has been excluded, but the provision of the Minimum Wages Act is applicable to the petitioner Management and having slept over for a period of four years, this Court cannot entertain the writ petition, that too, a meager sum has got to be paid to the employee towards Dearness Allowance arrears. If there is any collusion between the workers and any of the officials, it is needless to mention that it is open to the Management to initiate criminal / departmental action against those persons. There is no merit in the Writ Petition and accordingly, the Writ Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar(CS-I)

+1CC to Mr.M.Saravanakumar, Advocate, SR.No.81567

W.P. (MD) No.18979 of 2018
31.08.2018

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