



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.02.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No. 7985 of 2016
and
WMP (MD) No. 6536 of 2016

The Executive Engineer,
Tamil Nadu Water Supply
and Drainage Board,
Maintenance Division,
Kovilpatti, Thoothukudi.

... Petitioner

Vs.

1. The Deputy Commissioner of Labour,
(Authority under the
Payment of Wages Act), Madurai.

2.T.Panjamanikkam
3.P.Karmegam
4.A.Baskaran
5.S.Chellamuthu
6.S.Arumugam
7.A.Karuppasamy
8.K.Kannan
9.G.Saravanan
10.G.Rameshkannan
11.S.Kannan
12.G.Kannan
13.S.Seenipandi
14.R.Kathiresan
15.K.Rathakrishnan
16.P.Raja
17.S.Lakshmanan
18.R.Velusamy
19.A.Krishnasamy
20.N.Balasubramanian
21.A.Suresh

... Respondents

Prayer: Writ petition is filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, to call for the records pertaining to the impugned order passed by the first respondent in PW.4/2015 to 22/2015 and 25/2015 dated 09.03.2016 and quash the same.



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For petitioner
For Respondents

: M/S.Porkodi Karnan
: Mr.J.Gunaseelan Muthaiah,
Addl.Govt.Pleader for R1
Mr.S.Arunachalam
for R2 to 21

ORDER

Heard the learned counsel on either side.

2.TWAD Board is the petitioner. It is engaged in the work of providing water supply to the people. It is also involved in providing drainage schemes. For executing certain specific works, the board engages contractors for implementation of its projects. The contractors in turn employ contract labour. If a person has to be an employee under the Board, he has to fulfil certain qualifications. But, that would not be the case when they are engaged by the Contractors. According the petitioner, the private respondents herein were employed by the contractors and were paid by them only. It is the emphatic stand of the petitioner board that the board does not have anything to do with the private respondents who are contract labourer. While so, when the private respondents took out petitions under Section 15(2) of the Payment of Wages Act before the first respondent, the first respondent erred in giving a direction to the Board. Therefore, assailing the correctness of the said order, the present writ petition has been filed.

3.On behalf of the workers, counter affidavit has been filed. As rightly pointed out by the learned counsel for the private respondents, the fact that the private respondents had been working for the board is not in doubt. What is under challenge is only their status. According to the petitioner board, the private respondents are not its direct workmen. The learned counsel for the private respondents further pointed out that before the first respondent, the private respondents not only examined themselves but also marked a number of documents. Per contra, the board did not examine any official nor it marked any document. Thus, there was factually no rebutting material.

4.Another circumstance is fatal to the case of the petitioner board. The board is obliged to obtain license under The Contract Labour (Regulation and Abolition) Act, 1970. In this case, no such licenses were marked. The board did not again take any step to bring on record the alleged contractors. And again as rightly contended by the learned counsel for the private respondents, the issue is really not about the status of the private respondents. <https://hcservices.ecourts.gov.in/hcservices/> Once it is conceded that the private respondents had served the board either direct or indirectly, what is under dispute is the



rate of wages payable. It has been fixed by the board in its proceedings/orders. They were duly marked before the authority. Their applicability was not disputed by the petitioner board.

5. Therefore, the first respondent rightly allowed the petitions filed by the private respondents. If there are factual disputes, the petitioner could have availed the appeal remedy. Instead, it chose to invoke the writ jurisdiction of this Court under Article 226 of the Constitution of India. The scope for interference in exercise of jurisdiction under Article 226 of the Constitution of India is rather limited. When the board has not placed any material controverting the stand of the workmen before the authority under the Payment of Wages Act, this Court will not be justified in holding that the conclusion of the first respondent is perverse or bad in law. This Court finds no merit in this writ petition. It stands dismissed. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(AE)

/True Copy/

Sub Assistant Registrar

To

The Deputy Commissioner of Labour,
(Authority under the
Payment of Wages Act), Madurai.

+1cc to Mr.S.Arunachalam, Advocate Sr.No.49236
+1cc to M/S.Porkodi Karnan, Advocate Sr.No.49246
+1cc to SPECIAL GOVERNMENT PLEADER, Sr.No.49555

Skm

MK/SV MMS/SAR 4/19.06.2018/3P/5C

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