

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2019

CORAM

THE HON'BLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.12355 of 2004
and WPMP.No.14438 of 2004 and
WVMP.Nos.54 & 55 of 2008

1. The Management,
O/o. the Conservator of Forests,
Vellore.
2. The Management,
District Forest Officer,
Vellore Division, Vellore - 4.
3. The Management,
Forest Ranger,
Fort Campus, Vellore - 4. ...Petitioners

Vs.

1. C. Gopi
2. The Presiding Officer,
Labour Court, Vellore. ...Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, call for the records in I.D.No.27 of 1998 dated 02.05.2002 on the file of the Labour Court, Vellore and quash the same.

For Petitioner : Ms.Thangavadhana Balakrishnan
Additional Government Pleader(Forests)

For Respondent : Mr.P.Arumugarajan for R1

R2 - Labour Court

O R D E R

The Award dated 02.05.2002 passed in I.D.No.27 of 1997 is under challenge in the present writ petition.

2. The learned counsel for the writ petitioner states that the award is challenged for the limited purpose of quashing the backwages alone. The workman had already been reinstated and he is working as a Plot Watcher. The name of the first respondent/workman has already been included in the state wide seniority list for the purpose of considering his name for grant of permanent absorption and to clarify that the award is challenged to the restricted extent of quashing the backwages alone. The first respondent raised the Industrial dispute, challenging the order of termination. The Labour Court has considered the case of the workman and passed an award for reinstatement with backwages. However, the first respondent/workman was reinstated and now working as Plot Watcher. Further, his name was included in the State wide seniority list for the purpose of grant of permanent absorption. As far as the backwages is concerned, the learned counsel for writ petitioner states that the first respondent had not served during the relevant point of time and he joined in the Department with effect from 2009, thus the principles of 'No work No pay' would not be applicable and accordingly, he is entitled for backwages as ordered by the Labour Court.

3. This Court is of an opinion that the writ petitioner is a Forest Department, the first respondent was appointed in the year 1981 and the project itself was came to an end in the year 1997 and thereafter there was no work to provide to this temporary employee. When the project itself came to an end and the Department had not provided work to these employees, they are entitled to claim backwages and even they will approach the State ex-chequer as if the officials refused. The fact remains that the project came to an end and therefore, there was no possibility to provide work to these employees during the relevant point of time. Under these circumstances, awarding of backwages is not in consensus with the established principles.

4. Under these circumstances, this Court is of an opinion that the first respondent/workman has been reinstated and now working as plot watcher and further the scheme itself was closed in the year 1997 and that the scheme is not in force and the backwages awarded by the Labour Court is perverse. Accordingly,

the award of backwages of the Labour Court is perverse and not in consensus with the settled principles of law. As far as reinstatement is concerned, the said direction has already been implemented and therefore, there is no other reasons to interfere with the order of the reinstatement.

5. Consequently, award dated 02.05.2002 passed in I.D.No.27 of 1998 is quashed to the extent of awarding backwages alone and writ petition stands allowed partly. No costs. Connected miscellaneous petitions are closed.

6. It is brought to the notice of this Court that 50% amount of backwages already deposited before the Labour Court had been withdrawn. Thus, the amount need not be recovered from the workman concerned.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

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Vellore.

2.The Management,
District Forest Officer,
Vellore Division, Vellore - 4.

3.The Management,
Forest Ranger,
Fort Campus, Vellore - 4.

+1cc to Mr.P.Arumugarajan, Advocate SR.82954

+1cc to Spl Government Pleader SR.82941

RSI (CO)
CB(15/11/2019)

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