

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 18.11.2019
CORAM
THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
W.P.No.25472 to 25475, 25477, 25701, 25702
and 25704 of 2004

1 President,
Arasoor Village Panchayat,
Tiruvallur District. ...Petitioner in WP.25472 of 2004

1 President
Sirulapakkam Village Panchayat
Tiruvallur District ...Petitioner in WP.25473 of 2004

1 President
Panapakkam Village Panchayat
Tiruvallur District ...Petitioner in WP.25474 of 2004

1 President
Methoor Village Panchayat
Tiruvallur District ...Petitioner in WP.25475 of 2004

1 President
Sirulapakkam Village Panchayat
Tiruvallur District ...Petitioner in WP.25477 of 2004

1.The Commissioner Minjur
Panchayat Union Minjur
Tiruvallur District ...Petitioner in WP.25701 of 2004

2.The President
Kalpakkam Panchayat Union
Ponneri Taluk Thiruvallur District

1.The Commissioner Minjur
Panchayat Union Minjur
Tiruvallur District ...Petitioner in WP.No.25702 of 2004

2.The President Kolur Panchayat
Union Panchayat Ponneri Taluk
Tiruvallur District

1.The Commissioner Minjur
Panchayat Union Minjur
Tiruvallur District ...Petitioners in WP.No.25704 of 2004

2.The President
Merattur Panchayat
Ponneri Taluk
Tiruvallur District

vs

1. Varadhan,
C/o. General Secretary,
Chengai District Ooratchi Ondriya Visai
Pump Iyakkunargal Sangam,
25, Koovoor Vaidhianaathan Street,
Chintadripet, Chennai -2.

2. The Presiding Officer,
II Addl. Labour Court,
Chennai. ... Respondents in WP.25472 of 2004

1 Vajravel, C/o.General Secretary
C.D.O.O.V.P.I. Sangam Kovoor
Vaidhinatha Street
Chintadripet Chennai-2 ...Respondent in WP.25473 of 2004

2.The Presiding Officer
I Additional Labour Court Chennai

1.Srinivasan C/o.General Secretary
C.D.O.O.V.P.I.Sangam Kovoor
Vaidhinatha Street
Chintadripet Chennai-2

2.The Presiding Officer
I Additional Labour Court Chennai ...Respondent in WP.25474/2004

1.Murugesan (Deceased C/o.General Secretary
Chengai district, Ooratchi
Ondriya Visai Pump
Iyakkunargal Sangam
Chennai-2

2.The Presiding Officer
II Additional Labour Court
Chennai

3.TMT.Prameela W/o.Late
Murugesan

4.TMT.Vanitha D/o.Late
Murugesan

5.TMT.Chitra D/o.Late
Murugesan

6.Sudhakar S/o.Late
Murugesan (Minor) Rep by mother Tmt.Prameela

7.Selvi Mythili D/o.Late
Murugesan Minor Rep by Mother

(RR3 to 7 are substituted in the place
of deceased 1st respondent as per order
dated 15/12/2004 in WMP.44019/2004)

1.Radhakrishnan, C/o.General Secretary
C.D.O.O.V.P.I.Sangam Kovoor
Vaidhinatha Street
Chintadripet Chennai-2 ...Respondent in WP.25477 of 2004

2.The Presiding Officer
I Additional Labour Court Chennai

1.T.Venkatesan C/o.General Secretary
Chennai Ooratchi Onriya Visai Pump
Iyakkunargalsangam AITUC
Chintadripet Chennai-2 ...Respondent in WP.25701 of 2004

2.The Presiding Officer
II Additional Labour Court Chennai

1.R.Ethiraj Co.General Secret(Deceased)
AR Y Chengai Ooratchi Ondriya Visai Pump
Iyakkynargal Sangam AITUC 25 Kovoor
Vaithiyathah ...Respondent in WP.25702 of 2004

2.The Presiding Officer
II Additional Labour Court Chennai

3.Neela

4.P.Dakshyani

5.E.Padmavathi

6.Selvi E.Radha

(RR3 to 6 Substituted in the place of deceased
1st respondent as per order dated 15/12/2004
in WMP.No.44018/2004)

1.R.Elumalai Chengai
Ooratchi Onriya Visai Pump
Iyakkunargal Sangam AITUC
25 Koovoor Vaithinathan Street,
Chintadripet Chennai-2

2.The Presiding Officer
II Additional Labour Court Chennai ...Respondents in
WP.25704/2004

Prayer in W.P.No.25472 of 2004: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari or any other appropriate writ, order or direction in the nature of writ calling for records on the file of second respondent passed in C.P.No.322 of 2001 dated 17.10.2001 317/2001, dated 19/09/2001, 248/2001, dated 31/10/2001 173/2001, dated 29/11/2001, CP.No.318/2001 dated 13.09.2001 490/1996 dated 21/11/2002 596/1996 dated 21/01/2002; 549/1996, dated 21/01/2002 and quash the same.

For Petitioners : Mr.G. Sankaran for petitioner
in W.P.No.25472 to 25475, 25477
of 2004
Mr.G. Sankaran for Petitions in
W.P.Nos.25701, 25702 and 25704
of 2004

For Respondents : Mr. K. M. Ramesh for R1
for all WPs.
R2- Labour Court for all WPs.

सत्यमेव जयते
CO M M ON O R D E R

The order dated 17/10/2001, 19.01.2001, 31.10.2001, 29.11.2001, 13.09.2001, 21.01.2002, 21.01.2002 and 21.02.2002 passed by the second respondent in C.P.Nos.322, 317, 248, 173, 318 of 2001 and 490, 596 and 549 of 1996 is under challenge in the present Writ Petitions.

2. The petitioner is a Village Panchayat and the first respondent workman is employed as Over Head Tank Operator in the petitioner village on part time basis. The post of Over Head Tank Operator is itself part time job. Under these circumstances, the Government issued orders fixing the wages for the employees. The Claim Petition was allowed based on the Government Order issued in G.O.Ms.No. 449, Labour and Employment Department, dated 6/06/1977.

3. The learned counsel appearing on behalf of the writ petitioner states that the said Government Order is not applicable to respondent workman, more specifically for the post of Over Head Tank Operator working on part time basis. In respect of those workmen, Government Order was issued in G.O.No.192, dated 10.06.1997. The Government Order relied upon by the second respondent viz.G.O.No.449 Labour and employment Department, dated 06.06.1977 is not applicable on the other hand G.O.No.192, Rural Development Department dated 10.06.1997 alone would be applicable in the case of R1 as per the learned counsel appearing on behalf of the writ petitioner.

4. This court is not inclined to go into applicability of various Government Orders now cited by the respective parties. The fact remains that the order under challenge is ex parte order passed without hearing the petitioner. In view of the fact that the order impugned is ex parte order, this court is of the opinion that all such issues are to be adjudicated and decided on the basis of the documents as well as evidence if any to be adduced by the respective parties, on merits and in accordance with law. In normal circumstances, the High Court cannot encourage ex parte orders. Under these circumstances, the order dated 17/10/2001, 19.01.2001, 31.10.2001, 29.11.2001, 13.09.2001, 21.01.2002, 21.01.2002 and 21.02.2002 passed in C.P.Nos.322, 317, 248, 173, 318 of 2001 and 490, 596 and 549 of 1996, are quashed and the second respondent Labour Court is directed to restore the petitions to file and hear the matter by adjudicating the issues after affording an opportunity to all the parties concerned and dispose of the same within a period of 3 months from the date of receipt of a copy of this order.

5. The Writ Petition is allowed with a condition to pay Rs.10,000/- cost to the learned counsel appearing for the first respondents workmen within a period of four weeks from the date of receipt of a copy of this order, failing which the Writ Petitions shall stand dismissed automatically. No costs.

Memorandum of Cost

A condition to pay
Rs.10,000/- cost to the
learned counsel appearing for the
first respondents workmen ...10,000/-

To be paid by the petitioner
to the respondent 10,000

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

mrn

To
1. The Presiding Officer,
II Addl. Labour Court,
Chennai.

2. The Presiding Officer
I Additional Labour Court
Chennai

3. The President,
Arasoor Village Panchayat,
Tiruvallur District

4. The President
Sirulapakkam Village Panchayat,
Tiruvallur District

5. The President,
Methoor Village Panchayat
Tiruvallur District

6. The President
Panappakkam Village Panchayat,
Tiruvallur District.

7. The President
Sirulapakkam Village Panchayat,
Tiruvallur District.

8. The Commisioner,
Minjur Panchayat Union,
Minjur, Tiruvallur District.

9. The President
Kalpakkam Panchayat Union,
Panchayat, Ponneri Taluk,
Thiruvallur District.

10. The President,
Kolur Panchayat,
Tiruvallur District.

11. The President,
Merattur Panchayat,
Tiruvallur District.

+2 ccs to Mr.G.Sankaran Advocate sr95994,96498
+1 cc to Mr.K.M.Ramesh Advocate sr95818

W.P.No.25472 to 25475, 25477, 25701, 23702
and 25704 of 2004

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