

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.12.2019

CORAM

THE HON'BLE Mr. JUSTICE M.GOVINDARAJ

W.P.No.31825 of 2005

and

WMP.Nos.34898 and 34899 of 2005

Management,
Rep.by its President,
Ozhaiyur Ooratchi,
Ozhaiyur Village and Post,
Kancheepuram Taluk and
District. Petitioner

Vs.

- 1.The Principal Labour Court,
Chennai - 104.
- 2.The District Collector,
Collector Office,
Kancheepuram.
- 3.K.Elumalai
- 4.The Secretary,
Labour and Employment Department,
Government of Tamilnadu,
Fort St.George,
Chennai - 9.
- 5.The Secretary,
Rural Department,
Government of Tamil Nadu,
Fort St.George, Chennai - 9. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of writ of certiorarified mandamus, to call for the records in respect of the impugned order passed in C.P.No.315 of 2000 dated 07.02.2003 passed by Principal Labour Court, Chennai - 104, the 1st respondent herein and quash the same.

For Petitioner : Mr.V.P.Rajendran

For Respondents : Mr.K.M.Ramesh [for R3]
Ms.R.Janaki
Additional Government Pleader
[for RR1,2,4 & 5]

O R D E R

Challenging the order passed by the Principal Labour Court, Chennai, dated 07.02.2003, passed in C.P.No.315 of 2000, computing certain monetary benefits due to the third respondent workmen, the present Writ Petition has been filed.

2. The third respondent was appointed as a Over Head Tank operator. As per G.O.No.449, Labour and Employment Department dated 06.06.1997, the minimum wages payable to third respondent was Rs.150/- and D.A. at Rs.93.60 and in all 243.60, but the petitioner had paid a sum of Rs.25/- per month for the period from 1977-82, Rs.30/- per month from 1983-85, Rs.60/- per month from 1986-93 and Rs.100/- per month from 1993-97. As per the above said G.O., the third respondent is entitled to difference in minimum wages and also bonus for the year 1985-99. The Labour Court, after considering the evidence of R.W.1, which was to the effect that the third respondent was working as pumpset operator through out the year continuously, held that he shall not be considered as a part time worker, but as a full time worker and thereby he is entitled to difference in minimum wages as held by High Court in W.P.No.11982 of 1995 dated 18.09.1995 [Ex.P5]. Against the order of the Labour Court, the Panchayat Union is before this Court.

3. Admittedly, the Government passed G.O.Ms.449, Labour and Employment Department dated 06.06.1997, wherein the minimum wages of employees under any local authority were revised. The third respondent herein is a pumpset operator and it is declared by the Labour Court that he is entitled to minimum wages. In similar circumstances, this Court in W.P.Nos.10844 to 10846 of 2005 dated 13.06.2011 has found that the nature of the job of a Over Head Tank Operator is not one hour job and it is not a part time work, but in fact it is a full time work. The over Head Tank operators job is to fill up the over head water tank and distribute water through pipelines. He has to be there till the work is complete. On very many occasions, due to power cut the work will be extended beyond one hour. In cases of water leakage, break down of motors and other unforeseen circumstances, he has to remain there till the task is completed. Thus, the working hours was roughly calculated on the basis of time taken to fill up the overhead tank, actually it is almost a full time job. Hence the above observation that it is not part time, but full time job was made in the above referred judgment. The learned Single Judge has also observed that even though the

post of Over Head Tank Operator is not specifically referred to in the minimum wages notification, it is held that the nature of the duties performed by them can be brought under the term 'Driver (pumpset)' and accordingly, directed the writ petitioner therein to make the payment within a period of eight weeks. The present case, on hand, is also identical to the case referred above. Therefore, I am inclined to follow that order passed in W.P.Nos.10844 to 10846 of 2005 dated 13.06.2011. In the light of the above, the order passed by the Labour Court does not require interference. The 3rd respondent is entitled to the benefit as ordered by the Labour Court.

4. The writ petition merits no consideration and accordingly dismissed. The writ petitioner is directed to disburse all the amounts, which are due to third respondent within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1.The Principal Labour Court,
Chennai - 104.

2.The District Collector,
Collector Office,
Kancheepuram.

3.The Secretary,
Labour and Employment Department,
Government of Tamilnadu,
Fort St.George,
Chennai - 9.

4.The Secretary,
Rural Department,
Government of Tamil Nadu,
Fort St.George, Chennai - 9.

+1 cc to Government Pleader Sr.No. 105308

+1cc to Mr.V.P.Rajendran , Advocate SR.No.105201

+1cc to Mr.K.M.Ramesh , Advocate SR.No. 105197

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and

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A.SK(11/03/2020)

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