

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.03.2019

CORAM

THE HON'BLE MR.JUSTICE V.PARTHIBAN

W.P.No.7914 of 2011

Management
The Conservator of Forests
Fort, Vellore – 5.

....

Petitioner

Vs

1.V.Devendran

2.The Presiding Officer
Additional Labour Court
Vellore, Vellore District.

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Respondents

For Petitioner : Mr.S.V.Vijay Prashanth
For Respondents : Mr.M.R.Jothimanian – for R1
R2 – Labour Court

Prayer : Writ Petition filed under Article 226 of the Constitution of India seeking a writ of Certiorarified Mandamus calling for the records in I.D.No.101/2005 dated 16.12.2005 and consequential impugned order passed by the second respondent in C.P.No.172 of 2006 dated 21.01.2010 and quash the same, and consequentially direct the second respondent to restore the I.D.

सत्यमेव जयते

ORDER

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The facts which gave raise to the filing of the writ petition are being stated hereunder.

2. The first respondent / workman was appointed as Plot Watcher / Tending Watcher in the Forest Department on 01.01.1982. On 08.03.1999, G.O.Ms.No.64, Environment and Forest Department was issued by the Government for appointment of

Forest Watchers in the regular post among the Plot Watchers from the state wide seniority list of Plot Watchers. The respondent workman was also included in the seniority list as serial No.1655. According to the first respondent, he had worked for more than 20 years without any break.

3. While so, on 24.12.2003, it appears that the services of the first respondent workman came to be orally terminated and thereafter he approached the labour Court, Vellore in I.D.No.101 of 2005 for his reinstatement with continuity of service along with the back wages and all other attendant benefits. Considering the submissions made on behalf of the parties, the labour Court passed an award dated 16.12.2005, directing the petitioner department to reinstate the first respondent workman with continuity of service along with the back wages and all other attendant benefits. Thereafter, the first respondent workman submitted a representation to the petitioner department, requesting for reinstatement in service with continuity of service with backwages etc., in terms of the award passed by the labour Court. Since no orders were passed, the first respondent workman was constrained to approach the labour Court on 21.01.2010 by filing a computation petition in C.P.No.172 of 2006 and the same was also allowed by the labour court.

4. Despite the award being passed as early as in 2005 and the computation petition filed by the workman being allowed in 2010, the award was not implemented by the petitioner department. Therefore, the first respondent workman approached this

Court by filing W.P.No.25856 of 2010, which was disposed of by this Court on 28.01.2011, directing the department to implement the award passed by the labour Court. However, despite the direction, the department has not implemented the award passed by the labour Court.

5. In similar circumstances, the plot watchers have approached the labour court for regularising their employment and their disputes were allowed, against which a batch of writ petitions have been filed by the department before this Court in W.P.No.24601 of 2005 etc., This Court, dismissed the entire batch of writ petitions filed by the department on 08.08.2011, against which Writ Appeals were filed in W.A.Nos.2183 of 2012 etc., and the appeals were also dismissed by the Division Bench of this Court on 17.10.2012. The department, further approached the Honourable Supreme Court of India in S.L.P.(C) Nos.24930 to 24939 of 2013 and the Honourable Supreme Court dismissed all the S.L.Ps filed by the department by an order dated 30.06.2014.

6. Learned counsel for the petitioner / forest department has not disputed the above narration of facts. However, he submitted that the issue whether the forest department comes within the definition of industry or not was not decided and therefore, the award by the labour court needs to be interefered with by this Court. In any event, such a submission cannot be appreciated at this stage, in view of the similar awards being challenged by the forest department in a batch of writ petitions before this

Court and those writ petitions were dismissed by this Court on 08.08.2011 and the dismissal of the writ petitions was also confirmed in the Writ Appeals and further confirmed by the dismissal of the S.L.Ps filed by the department. Therefore, the issue whether the petitioner department is an industry or not cannot be adjudicated at this stage, since similarly placed plot watchers have got the benefit of the award of the labour court, which was confirmed by this Court as well as the Honourable Supreme Court.

7. From the award passed by the labour Court, this Court is able to see that the first respondent workman has been unjustly and illegally terminated and therefore the labour court has rightly interfered with the termination and ordered reinstatement of the workman with backwages and continuity of service. In any event, it is an admitted case that the first respondent's name is found in the state wide seniority list maintained by the petitioner department and therefore, he is entitled to be considered for regular employment on the basis of the Government Order issued in this regard. Moreover, this Court finds that the original award was passed in the year 2005 and the writ petition came to be filed only in the year 2011, after a period of six years, for which no proper explanation has been tendered in the affidavit filed in support of the writ petition. This Court is of the view that even on the ground of laches alone, this writ petition has to be dismissed. Even otherwise, this Court is of the view that the first respondent workman has been successful before the labour court on the basis of merits of his claim and the labour court has passed a well considered award, which is impugned in this writ petition.

8. For all the above reasons, this Court does not find no infirmity in the award passed by the labour Court and the same has to be confirmed without any modification. This Court also finds that the petitioner department has not placed sufficient grounds for assailing the award passed by the labour court and as such, this Court finds that the award of the labour court is to be upheld in all force and the first respondent workman is entitled to the benefits of the award passed by the labour court. Accordingly, this Court finds no merits in the writ petition and the same is dismissed and the petitioner department is directed to implement the award passed by the labour court in its letter and spirit within a period of eight weeks from the date of receipt of a copy of this order.

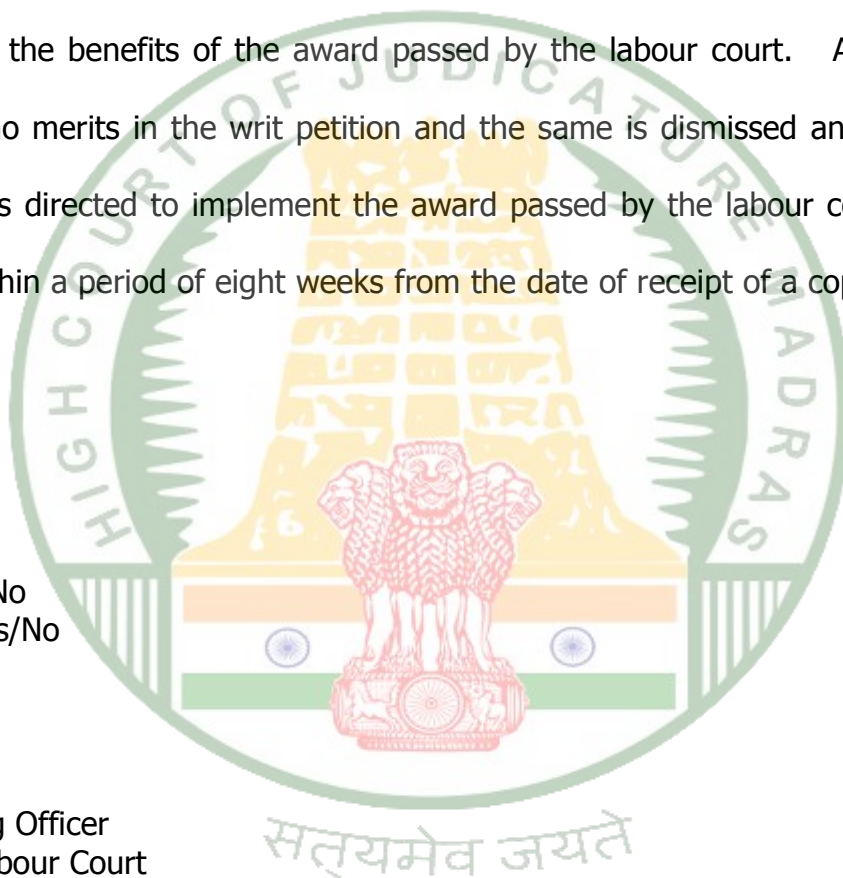
No costs.

Index : Yes/No
Internet : Yes/No
KST

To

The Presiding Officer
Additional Labour Court
Vellore, Vellore District.

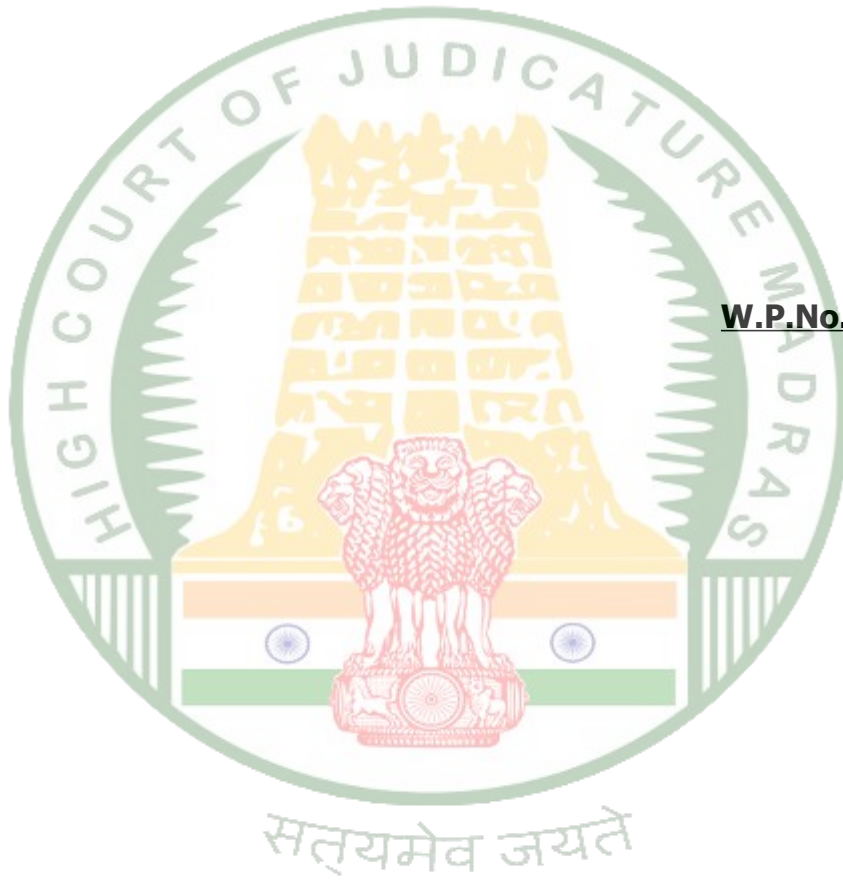
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