

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :19.12.2019

CORAM

THE HON'BLE MR.JUSTICE D. KRISHNAKUMAR

W.P.No.44040 of 2016

R. Govindaraj

...Petitioner

vs

1. The Principal Chief Conservator of Forests,
Head of Forest Force,
No.1, Geenies Road
Panagal Maligai
Saidapet, Chennai 600 015.
 2. The Conservator of Forests,
Vellore Region / Circle,
Fort, Vellore,
Vellore District.
 3. The Divisional Forest Officer,
Social Forestry Division,
Vellore, Vellore District.
- ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue an order, direction, and more particularly a Writ in the nature of Writ of Mandamus, directing the respondents to reinstate the petitioner as Plot Watcher and pay all monetary and other service benefits in terms of the order dated 13.03.2014 made in I.D.No.2 of 2013 passed by the Principal Labour Court, Vellore, Vellore District by considering the representation dated 23.09.2014.

For Petitioner : Mr. M.R. Jothimanian

For Respondents : Mr. M.Elumalai, Government Advocate (F)
for R1 to R3.

O R D E R

The petitioner has filed the above Writ Petition praying to issue an order, direction, and more particularly a Writ in the nature of Writ of Mandamus, directing the respondents to reinstate the petitioner as Plot Watcher and pay all monetary and other service benefits in terms of the order dated 13.03.2014 made in I.D.No.2 of 2013 passed by the Principal Labour Court, Vellore, Vellore District by considering the representation dated 23.09.2014.

2. The case of the Writ Petitioner is that he was appointed as plot watcher in the respondent department and that his service was not regularised by the respondent department and he was terminated from the service. Then he approached the Labour Court, in I.D.No.2 of 2013. The Labour Court has passed an award on 13.03.2014 by directing the respondent to reinstate the petitioner with continuity of service from 01.04.2004. The relevant portion of the order made by the Labour Court, is extracted hereunder.

"Though the petitioner's earlier service are not considered by the respondent for the reason that he was not in continuous service for ten years in terms of the Government Order, the petitioner has proved that he is in continuous service for 30 months from 01.01.2004. The said fact should have been considered by the respondent. But the respondent had chosen to terminate the petitioner on 01.04.2008. Since the petitioner had fulfilled Sec.3 of Tamil Nadu Industrial Establishment (confirmation of permanent status to workmen), 1981, the termination of the petitioner is found to be illegal and the claim of the petitioner for reinstating him into service and confirmation and permanent status is found to be reasonable. Hence the petitioner is entitled to get himself of reinstatement into the service of the respondent and get himself included in the list of seniority maintained by the respondent and also for regularisation with effect from 01.04.2004 atleast.

As the petitioner had knocked the doors of the court immediately after his termination by way of filing the writ petition and also by raising dispute before the Labour Officer, his claim for back wages can also be considered positively. Hence I am inclined to grant back wages as claimed by the petitioner along with reinstatement into service with continuity of service from 01.04.2004."

Pursuant to the aforesaid order, according to the writ petitioner, the respondent department has not challenged the aforesaid order. Therefore, he made representations on 23.09.2014 and 13.11.2015 to implement the order passed by the Labour Court. The first respondent has not chosen to consider the said representation. Hence, the writ petitioner has filed this Writ Petition for the aforesaid relief.

3. In the counter affidavit filed by the third respondent, it has been stated that the aforesaid order passed in I.D.No.2 of 2013 does not have any impact as the petitioner was working under the daily wages basis and as soon as the work allotted to him is completed, his service is terminated automatically. Therefore, he cannot claim any preference based on the labour Court order.

4. The above statement of the respondent cannot be accepted for the reason that the respondent department has not chosen to challenge the order passed by the Labour Court in I.D.No.2 of 2013. It is open to the respondent to challenge the abovesaid order passed by the Labour Court in I.D.No.2 of 2013, if so desires.

5. In view of the above, this court is inclined to direct the first respondent to consider the petitioner's representation dated 23.09.2014 in the light of the award passed by the Labour Court in I.D.No.2 of 2013 within twelve (12) weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar(J)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

Bga

Copy to

1. The Principal Chief Conservator of Forests,
Head of Forest Force,
No.1, Geenies Road
Panagal Maligai
Saidapet, Chennai 600 015.

2. The Conservator of Forests,
Vellore Region / Circle,
Fort, Vellore,
Vellore District.
3. The Divisional Forest Officer,
Social Forestry Division,
Vellore, Vellore District.

+1cc to Mr.M.R.Jothimanian, Advocate Sr.105978
+1cc to the Special Government Pleader Sr.106634

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srg 07/02/2020



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