

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :16.09.2019

CORAM

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

W.P.No.10375 of 2017

- 1.K.Arumugam
- 2.K.Sadaiyan
- 3.T.Rajagopalan
- 4.K.Kuppan
- 5.S.Santhi
- 6.A.Pavalakodi
- 7.R.Kaliyamma
- 8.A.Suseela

All are residing at  
Vellakadai Peak 'A' Estate,  
Kaveri Peak Post,  
Yercaud - 636 602,

Petitioners 1 to 8  
Represented by P.Paramasivam,  
General Secretary,  
Salem District Plantation Workers Union(Yercaud),  
114, Dr.Subbrayan Road,  
Salem - 636 001.

...Petitioners

vs

- 1.The Manager,  
Vellakadai Peak 'A' Estate,  
Kaveri Peak Post,  
Yercaud - 636 602,  
Salem District.

- 2.The Presiding Officer,  
Labour Court, Salem.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the award passed in I.D.No.21 of 1993 on 13.08.2012 on the file of the Second Respondent and to quash the same and further direct the First Respondent Management to reinstate the 8 workers involved in the dispute in I.D.No.21 of 1993 with continuity of service and back wages and other attendant benefits and further direct to issue

any other order or direction in the circumstances of the case and thus render justice.

For Petitioners : Mr.S.Arunachalam  
For M/s.S.Arunachalam Associates

For Respondents : Mr.S.Ravindran, Senior counsel  
For Mr.S.Baeer Ahamed for R1

R2 - Labour Court

## O R D E R

The Award dated 13.08.2012 passed in I.D.No.21 of 1993 by the 2<sup>nd</sup> respondent is sought to be quashed in the present writ petition.

2. The writ petitioner claims to be the workmen, served more than 240 days in the 1<sup>st</sup> respondent Estate. Based on the claim that they have served more than 240 days in one year, the petitioners raised Industrial Dispute under Section 2(k) of the Industrial Disputes Act against the denial of employment to 8 workers on 29.06.1990.

3. The Industrial Dispute raised in I.D.No.21 of 1993, ended with an order of dismissal on 13<sup>th</sup> August 2012. Challenging the said Award, the present writ petition is filed.

4. The learned counsel for the writ petitioners state that the Award was passed on 13<sup>th</sup> August 2012 and immediately the writ petitioners filed W.P.No.19233 of 1996 and the Award of the Labour Court, which was originally passed was set aside and the matter was remanded back to the Labour Court to examine the Document Ex.B1, so as to decide the details regarding the employment of the writ petitioners and passed a final Award. Against the said order passed in the writ petition, a Writ Appeal was filed and the same was dismissed. Accordingly, the Labour Court reheard the matter and rejected the Industrial Dispute. Challenging the said award, the present writ petition is filed by the writ petitioners / workmen.

5. The preliminary issue to be considered in this writ petition is that whether the writ petitioners had established that they have served 240 days of service in one year or not? The other factors are secondary. In view of the fact that if the employment of 240 days is not established, then it may not be required to consider the other benefits raised.

6. In this regard, the learned Senior Counsel appearing on behalf of the respondent Management solicited the attention of this Court that the Award was passed on 13.08.2012 by the 2<sup>nd</sup> respondent providing the following factual findings based on the appreciation of evidence.

7. It is contended that the documents produced by the Management as well as the evidences and also the evidences of the workmen were considered by the Labour Court and the findings are given as follows:

a. The documents placed by the parties prove that all the 6 estates were not under the control of a single person.

b. Exhibit M1 shows that none of the workmen had worked for 240 days of continues service in a calendar year.

c. Since, Exhibit M1 has not discredited by the contra evidence by the workmen, it cannot be accepted that the workmen had worked for 240 days of continues service in a calendar year.

d. WW2 accepted in his evidence that none of the workmen had worked for 240 days continuously in a single estate.

e. Since, Exhibit M1 is against the contentions pleaded by the workmen, it should be held that the workmen have not proved their case of continuous services for 240 days.

f. Appreciation of evidence show that it cannot be held that the services of the respondent workmen have been terminated in violation of Section 25F of the Industrial Disputes Act.

8. Citing the above findings of the Labour Court, learned Senior counsel made a submission that the writ petitioners have not even established their employment for 240 days in a calendar year, the other grounds lost its significance and relevance. When the Labour Court categorically found that the writ petitioners had not served for 240 days, they are not entitled for any relief as such sought for in the Industrial Dispute.

9. This Court is of the considered opinion that the Labour Court appreciated the documents and evidences. The writ petitioners also had participated in the proceedings. The Labour Court ultimately found that the writ petitioners had not completed 240 days of service.

10. On a perusal of the findings of Labour Court, this Court is of the opinion that there is no perversity or illegality in the matter of appreciation of the evidences and the documents filed by the respective parties.

11. The learned Senior counsel further raised a ground that the Award was passed by the Labour Court on 13.08.2012 and the writ petition itself was filed on 4<sup>th</sup> September 2015 after a lapse of about 3 years. Thus, the writ petition is liable to be

rejected on the ground of latches also. This Court is of the opinion that the said fact is not disputed and the writ petition is filed after a lapse of 3 years from the date of passing of the Award and as rightly contended, the writ petition is to be rejected on the ground of latches also.

12. This being the factum, this Court has no hesitation in coming to the conclusion that the Award of the Labour Court is in consonance with the legal principles and based on the evidences and documents produced by the respective parties, which were marked and adduced. Consequently, the Award passed by the Labour Court dated 13.08.2012 in I.D.No.21 of 1993 is confirmed and the writ petition stands dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Presiding Officer,  
Labour Court, Salem.

+1cc to Mr.S.Bazeer Ahamed, Advocate, SR.No.79610

Kak(21/10/2019)

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