

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2019

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

W.P.Nos.24960 & 24961 of 2017
and
W.M.P.Nos.26336 & 26337 of 2017

W.P.No.24960 of 2017

The Divisional Forest Officer,
Social Forestry Division Office,
Office of the Social Forestry Division,
Rangapuram, Vellore District. ..Petitioner

vs

1. G.Perumal
2. The Presiding Officer,
Labour Court, Vellore District. ..Respondents

Prayer : Writ Petition filed under Article 226 of the
Constitution of India praying to issue a Writ of Certiorari,
calling for the records of the 2nd respondent in I.D.No.179 of
2015 dated 14.09.2016 and quash the same.

W.P.No.24961 of 2017

The Divisional Forest Officer,
Social Forestry Division Office,
Office of the Social Forestry Division,
Rangapuram, Vellore District. ..Petitioner

vs

1. M.Mathiyazhagan
2. The Presiding Officer,
Labour Court, Vellore District. ..Respondents

Prayer : Writ Petition filed under Article 226 of the
Constitution of India praying to issue a Writ of Certiorari,
calling for the records of the 2nd respondent in I.D.No.180 of
2015 dated 14.09.2016 and quash the same.

For Petitioner : M/s.Thangavadhana Balakrishnan
Additional Government Pleader
(Forests)
(in both W.Ps)

For Respondents: R1 - Mr.S.T.Varadarajulu
(in both W.Ps)

R2 - Labour Court
(in both W.Ps)

C O M M O N O R D E R

The Awards dated 14.09.2016 passed by the 2nd respondent in I.D.No.179 of 2015 and I.D.No.180 of 2015 are under challenge in these writ petitions.

2. The learned counsel for the writ petitioner states that the 1st respondent in both the writ petitions are not entitled to maintain the I.D. for the simple reasons that the writ petitioner in both these writ petitions is the Tamil Nadu Forest department and the writ petitioner is executing the sovereign function of the State of Tamil Nadu. Hence, the writ petitioner Department is not an "Industry" as defined under Section 2(II) of the Industrial Disputes Act, in view of G.O.900 dated 15.5.1996.

3. The learned counsel for the writ petitioner states that the 1st respondent in both these writ petitions were worked in the department as Temporary Red Sanders Watcher and they were not a plot watchers. The 1st respondent in both these writ petitions were engaged as a daily wage employees, and their services were utilized on need basis. At no point of time, the 1st respondent in both writ petitions were appointed in a sanctioned post and in accordance with the recruitment rules in force.

4. This being the factum, the 1st respondent in both writ petitions cannot have any claim over the Department regarding the permanent absorption or otherwise. However, the 1st respondent in both the writ petitions raised an Industrial Dispute in I.D.No.179 of 2015 and I.D.No.180 of 2015 and the Labour Court passed Ex-parte Awards, against which, the present writ petitions were filed.

5. This Court is of the considered opinion that all the issues raised in an Industrial Dispute is to be adjudicated on merits and in accordance with law. High Court cannot encourage the Ex-parte awards passed without complete adjudication.

6. In the present cases, the writ petitioner is the Forest Department and claims that the Industrial Dispute itself is not maintainable in view of the fact that the Government is exercising the Sovereign power.

7. Under these circumstances, this Court is inclined to remand the matters back for re-adjudication by the Second respondent Labour Court. Consequently, the Awards dated 14.09.2016 passed in I.D.No.179 of 2015 and I.D.No.180 of 2015 are quashed. The cases are remanded back to the 2nd respondent Labour Court, Vellore District for re-adjudication by affording opportunity to all the parties concerned.

8. Accordingly, the 2nd respondent is directed to adjudicate the issues on merits and decide the same as expeditiously as possible without causing any undue delay.

9. Accordingly, both the writ petitions stand allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

- 1) The Presiding Officer,
Labour Court, Vellore District.
- 2) The Divisional Forest Officer,
Social Forestry Division Office,
Office of the Social Forestry Division,
Rangapuram, Vellore District.

+1 cc to Mr.S.T.Varadarajulu, Advocate, S.R.No.83342

W.P.Nos.24960 & 24961 of 2017

SS(CO)
SSM(04/11/2019).