



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.11.2020

CORAM:

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.1809 of 2014

and

M.P (MD) No.1 of 2014

WEB COPY

M.Lakshmanan

... Petitioner

Vs.

1.The Managing Director,
Tamilnadu Water Supply and Drainage Board,
No.31, Kamaraj Salai, Chepauk,
Chennai - 5.

2.The Chief Engineer,
Tamilnadu Water Supply and Drainage Board,
Ganesh Nagar,
Madurai - 7.

3.The Superintending Engineer,
Tamilnadu Water Supply and Drainage Board,
Madurai - 7.

4.The Executive Engineer,
Tamilnadu Water Supply and Drainage Board,
R.W.S.Division, Ganesh Nagar,
Madurai - 7.

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records connected with the impugned order passed by the 1st respondent in his proceedings Proc.No.41535/WCE 5/HO/2002, dated 23.02.2012 and consequential order passed by the 4th respondent in his proceedings proc.No.3529/F NMR / EA/2012 dated 24.2.2012 and Na.No.7109/Ni..U/Ko.Kavalar/2012 dated 21.12.2012 and quash the same and consequently direct the respondents to regularize the service of the petitioner w.e.f. 16.11.91 in Regular Time Scale of Pay in the category of Watchman as per the award of the Hon'ble Labour Court, dated 13.12.2001 in I.D.No.261 of 1994 and confirmed by this Court by order dated 14.11.2011 in W.P.No.39869 of 2002 and to pay back wages and other monetary and attendant benefits from 16.11.91 till the date of his reinstatement in time scale of pay with effect from 21.12.2012 as applicable to the category of Watchman in Regular Time Scale of Pay.

For Petitioner : Mr.S.Govindan
For Respondents : Mr.Porkody Karnan
(R1 to R4)



ORDER

The order passed by the 1st respondent in proceedings, dated 23.02.2012 and the consequential order, dated 24.02.2012 and 21.12.2012, are sought to be quashed. Further direction is sought for to regularize the services of the petitioner with effect from 16.11.1991 in the regular time scale of pay, as per the Award of the Labour Court, dated 13.12.2001 in I.D.No.261 of 1994, and confirmed by this Court, dated 14.11.2011 in W.P.No.39869 of 2002.

2. The grievances of the writ petitioner is that the issues were adjudicated before the Labour Court and the Labour Court granted the relief in favour of the writ petitioner. The Labour Court passed an Award stating that;

"(i) The termination of the petitioner from his services by the respondent with effect from 16.11.1991 is declared to be invalid in law, as it is in violation of Section 25-F of the Industrial Disputes Act and it is hereby set aside.

(ii) The respondent is hereby directed to reinstate the petitioner in the same post as watchman, which he was holding at the time of termination, however, he would be entitled for daily wages as on the date of reinstatement.

(iii) The respondent is directed to pay 50% of the back wages to the petitioner at the rate of Rs.21/- per day for 26 working days in a month for the period 16.11.1991 till the date of his reinstatement.

(iv) The respondent shall consider to regularize the petitioner's appointment considering his services continuous from 16.11.1991 till the date of reinstatement and in the light of the 12(3) Settlement and the orders passed by the Managing Director, TWARD Board, as applied to NMR Workmen, who were in service on 16.11.1991."

3. The said Award was challenged by the Assistant Executive Engineer, Tamil Nadu Water Supply and Drainage Board, Sivagangai, in W.P.No.39869 of 2002. This Court confirmed the Award of the Tribunal by order dated 14.11.2011. Relying on the Award of the Labour Court, which was confirmed by this Court, the learned counsel for the respondent made a submission that the respondents are committing violations with reference to the terms of the Award passed by the Labour Court, which was confirmed by the High Court.

4. This Court is of the considered opinion that the issues with reference to grant of regularization, back wages and service



benefits were already adjudicated by the Labour Court elaborately and the reliefs were granted in favour of the writ petitioner. The appeal filed by the respondent was also rejected by this Court. Thus, re-adjudication of the issues already adjudicated before the Labour Court is impermissible in the present writ petition. The impugned order passed by the respondents are based on the Award passed by the Labour Court, If any further benefits sought to be granted as per the petitioner with reference to the Award, the course of action would be to file an execution petition before the Labour Court, under amended Section 11 of the Industrial Disputes Act.

5. The amended Section 11 stipulates that "Every Award made, order issued or settlement arrived at by or before Labour Court or Tribunal or National Tribunal shall be executed in accordance with the procedures laid down for execution of orders and decree of a civil Court, under Order 21 of the Code of Civil Procedure, 1908." The Labour Court or Tribunal or National Tribunal, as the case may be, shall transmit any award, order or settlement to a Civil Court having jurisdiction and such civil Court shall execute the award, order or settlement as if it were a decree passed by it.

6. Thus, the wrong implementation of the Award or non-implementation of the Award would provide a right for the petitioner to file an execution petition in accordance with the provisions of the Industrial Disputes Act and re-adjudication of the issues already adjudicated and settled before the Labour Court, which was confirmed in the High Court is impermissible by way of filing a fresh writ petition. The order impugned passed by the respondents are in continuation of the Labour Court Award and all such grounds raised are to be adjudicated by filing an execution petition, if the petitioner is advised to do so in accordance with law. This being the principles to be followed, this writ petition is not entertainable and accordingly stands dismissed. No costs. Consequently, the connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

MPK
To

1.The Managing Director,
Tamilnadu Water Supply and Drainage Board,
No.31, Kamaraj Salai, Chempauk,

<https://hcservices.chennai.gov.in/hcservices/>



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Madurai - 7.

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Tamilnadu Water Supply and Drainage Board,
R.W.S.Division, Ganesh Nagar,
Madurai - 7.

+1 CC to Mr.S.GOVINDAN, Advocate (SR-20891[F] dated 03/11/2020)

+1 CC to Mr.POR KODIKARNAN, Advocate (SR-20889[F]dated 03/11/2020)

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VB (09.11.2020) 4P 7C