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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2021

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THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 30902 of 2004

and

W.P.M.P. No. 37509 of 2004 and W.P.M.P. No. 3030 of 2005

The Assistant General Manager,
State Bank of India,
Zonal Office,
Madurai.

... Petitioner

-VS-

1. The Central Government Industrial
Tribunal cum Labour Court, Chennai,
Block No. 1, Sastry Bhavan,
Haddows Road,
Chennai - 600 034.

2. A.L.Sekar

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the records from the First Respondent relating to the I.D. No. 76 of 2001 and the Award dated 05.02.2004 on the file of the Central Government Industrial Tribunal cum Labour Court, Chennai the First Respondent and quash the Award dated 05.02.2004 made in I.D. No. 76 of 2001.

For Petitioner : Mr. Anand Gopalan
for M/s. T.S.Gopalan & Co.

For Respondents: R1- Court
Mr. K.M.Ramesh (for R2)



ORDER
(through video conference)

Heard Mr. Anand Gopalan, Learned Counsel for the Petitioner and Mr. K.M.Ramesh, Learned Counsel for the Second Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Central Government, Ministry of Labour in Notification No. L-12012/238/98/IR(B-1) dated 08.01.1999 had made the following reference as an industrial dispute under the Industrial Disputes Act, 1947:-

“Whether the demand of the workman Sri. A.L.Sekar, Waitlist No.305 for restoring the Wait List of temporary messengers in the establishment of State Bank of India and consequential appointment thereupon as Temporary Messenger is justified? If so, to what relief is he entitled?”

The Central Government Industrial Tribunal cum Labour Court took up the said reference as I.D. No. 76 of 2001 along with those relating to persons similarly placed to the Petitioner and on completing enquiry, answered the same by common award dated 05.02.2004 as follows:-

“15. In view of my finding that the waitlist prepared by the Respondent/Bank in terms of the settlement as alleged by them is not valid, I find the Petitioners in these industrial disputes are entitled to the relief. But, with regard to back wages, the Petitioners were terminated from service in the year 1997 and since the matters are pending more than six years, I find the Petitioners are not entitled to any back wages and with regard to reinstatement in service of the II Party/Management, continuity of service and other attendant benefits, they are entitled to the relief. Ordered accordingly. No costs.”

The Petitioner has challenged that award in respect of I.D. No. 76 of 2021 relating to the Second Respondent in this Writ Petition.

3. It is brought to the notice of this Court by Learned Counsel for both sides that in respect of the other persons in whose favour the common award had been passed, the Petitioner had challenged the same by way of Writ Petitions



which culminated before the Hon'ble Supreme Court of India in State Bank of India -vs- Chinnaponnu (Order dated 03.10.2019 in Civil Appeal No. 6698 of 2016 etc., batch) which reads as follows:-

"In view of the assertions and the counter assertions, we find it difficult in the present proceedings to determine this controversy. As to how this factual controversy would be determined, we have heard learned counsel for the parties. Without prejudice to the contentions of the appellant-bank that such an inquiry is not necessary, learned senior counsel for the appellant offered on instructions that instead of remitting this aspect to a Industrial Tribunal, a retired judge of the High Court may be appointed to put the controversy to rest.

We also make it clear to the private individual respondents that such determination will not be available for further challenge and must put a quietus to the dispute and the benefit, if any, would also go to any of the respondents alone before us and not to open another pandoras box after three decades. The scope of inquiry before learned Judge who would go into it would be to only verify whether the list prepared in pursuance of the settlement of 1987 and the consequent advertisement of 1st August, 1988 does or does not contain the name of any casual/daily wage employees. If it does not, that is the end of the matter so far as the private individual 9 respondents are concerned. If, however, findings are that there were some such employees, then the benefit would be available only to the extent of the number of such persons found and that too if the respondents also would have made it to the list by their merit in the list of the temporary employees. In case any such candidates are found, then the learned Judge would take a call as to what would be the compensation to be paid to such persons as there is no question of now giving them employment. The remit is confined to this aspect alone making the view to be taken by the learned Judge final and thus making it clear that no further challenge in this behalf will be entertained from any of the parties or any third party now seeking to claim any right.

We appoint Shri R.S.Ramanathan, retired Judge



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of the Madras High Court to determine the aforesaid issue and the learned Judge will endeavour to conclude these proceedings within a period of three months from their commencement..."

4. In furtherance to the aforesaid order, Hon'ble Mr. Justice R.S.Ramanathan (Retired Judge of this Court) in his Order dated 31.01.2020 has observed as follows:-

"The Hon'ble Supreme Court also made it clear that in the event of coming to the conclusion that some casual/daily wagers were included in the list of the temporary employees then I will have to determine the compensation payable to such persons as there is no question of giving them employment. Therefore, the question of giving the respondents before the Supreme Court, employment is ruled out and I have to determine the compensation payable to such persons. I have already held that in the absence of assistance from the Bank and from the Unions it is not possible to determine the number of persons from casual/daily wagers who were included in the list of temporary employees. The Hon'ble High Court in the batch of Writ Petitions filed against the Awards passed in ID 207 of 2004 batch and ID 80 of 2000 batch gave a factual finding that casual/daily wagers were included in the list of temporary employees and they were given employment. The Hon'ble Supreme Court also took that finding into consideration and directed me to find out if really there was jumbling of list. At the risk of reputation, in the absence of any assistance from the Bank as well as the Union, it is not possible to find out the number of persons who were employed as casual/daily wagers and who were included in the list of temporary employees and later absorbed in employment. At the same time, as suggested by the Learned Counsel Mr. N.G.R.Prasad, I cannot draw adverse inference and cannot come to conclusion that all the Respondents before the Hon'ble Supreme Court would have been benefited if there had been no jumbling of list. However, considering the fact that the Respondents before the Hon'ble Supreme Court are fighting their cause from 2000 onwards and the Bank which is expected to maintain the records regarding the date of entry,



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length of service of all employees including casual/daily wagers does not come forward to furnish the particulars such as date of entry, length of the temporary employees and casual/daily wagers, and the Union also is not prepared to give the details of those casual/daily wagers who were absorbed in employment along with the temporary employees, I am of the opinion that it would be justified if compensation is paid to the workers who are parties before the Hon'ble Supreme Court. The next question that arises for consideration is what would be the quantum of compensation payable to the workers/Respondents before the Hon'ble Supreme Court. This lis is pending from 2000 and the workers succeeded before the Hon'ble High Court. It is stated that in the ID 207 of 2004 batch 19 temporary employees were parties. Though it is stated that all the parties before the High Court viz., the temporary employees were also parties before the Hon'ble Supreme Court as Respondents, that cannot be ascertained by me. The Hon'ble supreme Court also made it clear in their order that my determination of this issue will not be available for further challenge and the benefit if any would also go to any of the Respondents alone before the Hon'ble Supreme Court and not to open another Pandora box after 3 decades. Therefore, the compensation to be awarded by me is payable only to the Respondents who were parties before the Hon'ble Supreme Court and not to others.

Considering the long period of litigation and the number of persons affected and considering the various aspects as stated above, in my opinion a sum of Rs. 50,000/- to each temporary employees/Respondents before the Hon'ble Supreme Court payable by the State Bank of India would meet the ends of justice. Therefore, I direct the State Bank of India the petitioner before the Hon'ble Supreme Court to pay a sum of Rs.50,000/- to each of the Respondents/temporary employees before the Hon'ble Supreme Court within a period of one month from the date of receipt of this order."

5. It is accepted by Learned Counsel for both the sides that the Second Respondent in this case, who is similarly



placed to those employees in the aforesaid batch of cases, would also be entitled to the same benefit of receiving Rs. 50,000/- (Rupees Fifty Thousand only) from the Petitioner and consequently, the impugned award dated 05.02.2004 in I.D. No. 76 of 2001 passed by the Central Government Industrial Tribunal cum Labour Court, shall stand set aside. The Petitioner shall file report of such compliance with written acknowledgment of making such payment to the Second Respondent by 30.11.2021, in the Registry of this Court without fail.

In the result, the Writ Petition is disposed on the aforesaid terms. Consequently, the connected miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

vjt/skr

To

1. The Assistant General Manager,
State Bank of India,
Zonal Office,
Madurai.
2. The Central Government Industrial
Tribunal cum Labour Court, Chennai,
Block No. 1, Sastry Bhavan,
Haddows Road,
Chennai - 600 034.

+1cc to Mr.K.M.Ramesh, Advocate, S.R.No.55361

+1cc to M/s.T.S.Gopalan & Co., Advocate, S.R.No.55738

W.P. No. 30902 of 2004

GPL(CO)
SB(09/11/2021)