



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.12.2011

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.NO.30239 OF 2011

AND

M.P.NO.1 OF 2011

The Superintending Engineer,
Tirupattur Electricity Distribution Circle,
Tamil Nadu Electricity Board,
Tirupattur 635 601.

...Petitioner

Vs.

1.The Presiding Officer,
Additional Labour Court, Vellore.

2.S.Rathinam

...Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorari Mandamus to call for the records in common award passed by 1st respondent herein in C.P.No.702 of 2003 dated 11.02.2010 on the file of the first respondent and quash the same and pass orders.

For Petitioner : Mr.Anand Gopalan

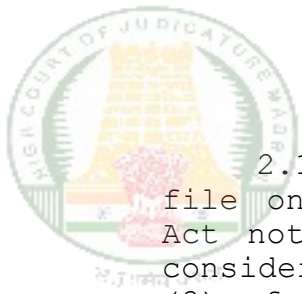
For Respondents : No appearance for R2
R1 - Labour Court

ORDER

This writ petition has been filed to quash the Award passed by the first respondent in C.P.No.702 of 2003 dated 11.02.2010.

2. The case of the petitioner in brief:

The petitioner herein is the Electricity Board. The second respondent was worked in the Electricity Board as daily piece rate workman and he was not a regular employee. The workmen received their wages, immediately after completion of work. A piece rate workman cannot be presumed as a temporary workman. The second respondent filed computation petition before the first respondent/ Labour Court praying for wages from 24.03.2003 and the Labour Court had passed the Award infavour of the second respondent, directing the Board to pay a sum of Rs.3,40,205/-.



2.1. According to the petitioner, a computation petition can file only based on the Award passed under Industrial Disputes Act not by any other Act. The first respondent has failed to consider the fact that settlement under Section 18(1) and Sec. 12(3) of the Industrial Disputes Act dated 10.08.2007 was entered between the petitioner and the Unions and the second respondent herein had given undertaking that he cannot claim the back wages and other benefits before the date of absorption and also undertook to withdraw the court cases filed by him. Based on the above settlement, the second respondent was absorbed in the service of the Board. This court has also upheld the settlement entered between the petitioner and the Unions in its decision, reported in 2009(4) MLJ 472, But, the Tribunal without considering the above facts, passed the Award. Hence, this writ petition seeking to set aside the Award.

3. None appeared on behalf of the second respondent, who filed computation petition before Labour Court.

4. The learned counsel appearing for the petitioner submitted that the second respondent had approached the Inspector of Labour, Thiruvannamalai and obtained order in favour of him vide order passed in NaKa No.E4142/2001 dated 24.03.2003, granting permanent status. Based on the above said order, he had filed computation petition before the first respondent/ Labour Court, and the first respondent has allowed the above petition, directing the petitioner to pay a sum of Rs.3,40,205/- to him.

5. He further submitted that the petitioner Board has filed a writ petition in W.P.No.18863/2004 before this court, challenging the order passed by the Inspector of Labour in NaKaNo.E.4142/2001 dated 24.03.2003. The above writ petition was dismissed by this court vide order dated 06.07.2004. Challenging the above order, the petitioner had filed an appeal in W.A.No.3410 of 2004 and a Division Bench of this court, vide order dated 03.04.2009, has allowed the appeal. In the meantime, the second respondent had filed a computation petition before the first respondent, to execute the order passed by the Inspector of Labour and the first respondent has passed the Award in favour of the second respondent.

6. The learned counsel further submitted that, a settlement under Section 12(3) of the Industrial Disputes Act was entered into between the Electricity Board and the Unions espousing the cause of contract labourers with regard to absorption of contract labourers. The above contention of the petitioner was accepted by the Division Bench and has set aside the order passed by the Inspector of Labour dated 24.03.2003. Therefore, since the order passed by the Inspector of Labour dated



24.03.2003 was quashed by a Division Bench of this court vide order dated 04.04.2009 in W.A.No.3410/2004, the computation petition filed by the second respondent, before the first respondent is not maintainable either in law or on facts. Hence, the order passed by the first respondent is liable to be set aside.

7. In view of the order passed by the Division Bench of this court in W.A.No.3410/2004 dated 03.04.2009, the computation petition filed by the petitioner before the first respondent is not maintainable and hence, the Award passed by the first respondent is liable to be quashed.

8. Accordingly, this writ petition is allowed and the impugned Award passed by the first respondent in C.P.No.702 of 2003 dated 11.02.2010 is set aside. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar

mst

To

The Presiding Officer,
Additional Labour Court,
Vellore.

+lcc to Mr.T.S.Gopalan & Co., Advocate Sr.No.64473

W.P.Nos.30239 of 2011 and
M.P.No.1 of 2011

SRA(CO)
RVM(28/12/2021)