



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 07.01.2021

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P. (MD)No.10171 of 2010
and
M.P. (MD)No.1 of 2010

The Special Officer,
Manavadi Panchayat cum
Block Development Officer,
Village Panchayat,
Panchayat Union Office,
Thanthoni Post, Karur District.

: Petitioner

(Petitioner is substituted vide Court Order
dated 18.12.2017 in WMP(MD)No.19557 of 2017 in
WP(MD).No.10171/2010)

Vs.

1. The Deputy Commissioner of Labour,
(Under the Payment of Wages Act),
Dindigul.

2. N.Ammayappan

3. The Block Development Officer,
Thanthoni Union Office,
Thanthoni, Karur-5.

4. The Assistant Director of Rural Development,
District Collector's Office,
Thanthoni Post, Karur-7.

: Respondents

PRAYER:- Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorari, to call for the records of the first respondent Sa.Pa.Case No.10/09 and I.A.No.10/09, dated 30.04.2010 and quash the same.

For Petitioner

: Mr.D.Muruganantham
Additional Government Pleader

For R2

: Mr.S.Balakrishnan
for Mr.M.Ravi



ORDER

This Writ Petition has been filed challenging the order of first respondent, dated 30.04.2010.

2. Heard Mr.D.Muruganantham, learned Counsel for the petitioner and Mr.S.Balakrishnan, learned Counsel for Mr.M.Ravi, learned Counsel for the second respondent.

3. The case of the petitioner is that the second respondent is working as temporary Overhead Tank Operator in Manavadi Panchayat and he is receiving the salary as prescribed by Government Orders. However, the second respondent filed a claim petition seeking for deficit salary for about 106 months from 01.04.1999 to 29.02.2008. Though the said claim petition was filed by the second respondent with the delay of 2878 days, the first respondent has condoned the delay and passed an award directing the petitioner to pay the deficit wages. Challenging the same, the present Writ Petition is filed.

4. The learned Counsel for the petitioner would submit that the petitioner Panchayat does not come within the purview of Payment of Wages Act. Section 2 of the Act defined "Industrial or other Establishment". He would also submit that the Panchayat is running under Tamil Nadu Panchayat Act and controlled by the Government of Tamil Nadu and the petitioner is not running any factory or industry, as defined in the aforesaid provision. He would further submit that entertaining the claim petition, which was filed with an inordinate delay and passing of award against the Town Panchayat is not maintainable and without jurisdiction. Hence, he prays for allowing this Writ Petition.

5. The learned Counsel for the second respondent would submit that the trial Court has elaborately considered all the issues, including the jurisdictional issue. He would also submit that the trial Court has also considered Section 2(ii)(g) of the Payment of Wages Act, which clearly held that establishment in which any work relating to the construction, development or maintenance or buildings relating to operations connected with navigation, irrigation or supply or water, the establishment has to pay salary as per Government Order. In the present case, contrary to the Government Order, namely, G.O.Ms.No.60, dated 03.05.2005, the Panchayat has fixed the salary. He would also submit that as per the said Government Order, the salary was not paid to the second respondent. Hence, he prays for dismissal of this Writ Petition.

6. Considering the facts and circumstances of the case, this Court is of the view that the facts in this case are not in dispute. Section 2(ii)(g) of the Payment of Wages Act, 1947, reads as follows:

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



"2. Definitions.-

"Industrial or other establishment" means any
(g) Establishment in which any work relating to the constructed, development or maintenance of building, roads, bridges or canals, or relating to operations connected with navigation, irrigation; or the supply of water, or relating to the generation, transmission and distribution of electricity or any other form of power is being carried on;

(h) any other establishment or class of establishment which the Central Government or a State Government may, having regard to the nature thereof, the need for protection of persons employed therein and other relevant circumstances, specify, by modification in the Official Gazette."

7. On plaint reading of the above, it makes it clear that the Establishment, in which any work relating to the construction, development or maintenance of building or relating to operations connected with navigation, irrigation; or the supply of water, they are come under the Payment of Wages Act. In the present case, the petitioner Panchayat engaged the second respondent as Overhead Tank Operator for supply of water to the general public, in which they are coming under the purview of Payment of Wages Act, 1947, and that the petitioner has to pay the wages as per the Government Order. However, in the present case, this was not acted upon as per the Government Order, based on which, the Labour Court has passed the impugned Award, which cannot be interfered with by this Court.

8. Accordingly, this Writ Petition is dismissed and the petitioner is directed to pay the award amount to the second respondent with 6% simple interest per annum from the date of award till the date of realisation, within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Crl.Side)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

cmr



To

1. The Deputy Commissioner of Labour,
(Under the Payment of Wages Act),
Dindigul.

2. The Block Development Officer,
Thanthoni Union Office,
Thanthoni, Karur-5.

3. The Assistant Director of Rural Development,
District Collector's Office,
Thanthoni Post, Karur-7.

+1 CC to the SPL GP (SR-667[F] dated 08/01/2021)

W.P. (MD) No.10171 of 2010
07.01.2021

VR (CO)
CS (25.01.2021) 4P 5C