



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.02.2021

CORAM:

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

W.P. (MD)No.13211 of 2011

and

M.P. (MD) .No.1 of 2011

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The Senior Regional Manager,
Senior Regional Office,
Tamilnadu Civil Supplies Corporation,
Thanjavur.

.. Petitioner

Vs

1.The Presiding Officer,
Labour Court,
Cuddalore.

2.Anthony Ammal

3.Julius Charles

4.Jansirani

5.Edwin

.. Respondents

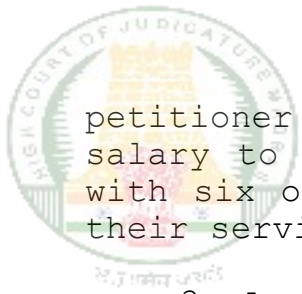
Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records pertaining to the impugned Award dated 24.12.2010 in I.D.No.35 of 1997 on the file of the first respondent and quash the same.

For Petitioner	: Mr.G.Mohan Kumar
For Respondents 2 to 5	: Mrs.D.Geetha
Respondent No.1	:Labour Court

O R D E R

This writ petition has been filed challenging the Award dated 24.12.2010 in I.D.No.35 of 1997 on the file of the first respondent by the Management.

2. The case of the petitioner is that one Arokiyasamy, who is the husband of the second respondent herein and father of the respondents 3 to 5 was appointed as Security Guard by the Ex-services Welfare Officer, Tamil Nadu Ex-servicemen Corporation (TEXCO), Thanjavur on contract basis and he was posted at the petitioner/Management establishment at Cap Pillayaripatti on contract basis in the year 1993 vide their communication dated 16.03.1993. The said Arokiyasamy was the employee of the Tamil Nadu Ex-servicemen Corporation (TEXCO) and not the employee of the



petitioner Management and the petitioner Management did not pay the salary to him. Further, the Management dismissed Arokiyasamy along with six others by an order dated 08.02.1996 and sent them back as their services were no longer required.

3. Aggrieved by the said order of dismissal, Arokiyasamy raised industrial dispute in I.D.No.35 of 1997 before the Labour Court, Cuddalore, for the relief of reinstatement with all service benefits. The Management filed a detailed counter in the above ID contending that Arokiyasamy is not the employee of the petitioner/Management and that there is no employee-employer relationship between the said Arokiyasamy and the Management and further the petitioner was the employee of Tamil Nadu Ex-servicemen Corporation (TEXCO) and his salary was not paid by the Management directly. Pending Industrial Dispute, the said Arokiyasamy died on 30.04.2004 and his legalheirs are impleaded to continue the industrial dispute.

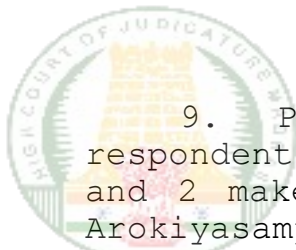
4. On the side of Arokiyasamy, W.W.1 was examined and Exs.W1 to W11 were marked. On the side of the Management, M.W.1 was examined and Exs.M1 to M11 were marked.

5. After analysing oral and documentary evidence, the Labour Court held that the deceased Arokiyasamy is entitled for reinstatement with continuity of service only from the date of dismissal till the date of his death for the purpose of calculating his service period and for calculating the retirement benefits and therefore, passed an award of reinstatement with continuity of service, but without backwages.

6. As against the reinstatement with continuity of service ordered by the Labour Court, the Managment has filed the present writ petition.

7. Heard the learned counsel for the petitioner as well as the learned counsel for the respondents 2 to 5 and perused the materials available on record.

8. The learned counsel for the petitioner would submit that though the Labour Court rightly denied the backwages for non-employment period, however, order for reinstatement in favour of the said Arokiyasamy for receiving other benefits and continuity of service is non-est in law. Further he would submit that without analysing the documentary evidence, particularly, MW.1 and MW.2, which are the order of the Chairman of the Management and the agreement entered between the respondent and TEXCO, respectively, passing the award for reinstatement of the said Arokiyasamy is contrary to law and further as per M.W.2 the said Arokiyasamy is not entitled for reinstatement and accordingly, he prays for allowing this writ petition.



9. Per contra, Mrs.D.Geetha, learned counsel for the respondents 2 to 5 would submit that even on bare perusal of MWs.1 and 2 makes it clear that the said documents are not related to Arokiyasamy and it relates to some other areas for which the petitioner Management and TEXCO entered into a contract and hence, it is not binding on Arokiyasamy. Further, the learned counsel drawn the attention of this Court to the communication letter dated 08.03.1993(Ex.M3) marked by the petitioner Management addressed to the District Ex-Service Men Welfare Office, for providing security arrangements by TEXCO for the Management Cap Storage Pillayarpatti TNJ Taluk, for which Arokiyasamy was sponsored by the TEXCO for employment of security guard. Based on that, the appointment order was issued. The appointment order dated 18.03.1993 itself makes it clear that the said Arokiyasamy is appointed as security guard by the then Sub Regional Manager(Nagarajan) of the Management. Further, the Ex-service man Board, by its letter, dated 28.03.1996 clarified that the persons, who were sponsored for Special employment were not sponsored through contract employment. All these facts make it clear that the said Arokiyasamy is entitled for reinstatement and hence, the dismissal order passed by the Management is non-est in law. Therefore, the order of the Labour Court is perfect and there is no need to interfere with the award. Thus, she prays for dismissal of this writ petition.

10. Before this Court ventures into the merits of the contention raised on either side, it would be first necessary to bear in mind the scope and jurisdiction of this Court under Article 226 of the Constitution of India, while examining the correctness of the award of the Labour Court. The Hon'ble Supreme Court in a catena of decisions has held that normally a writ court should not interfere with the award of the Labour Court, unless the award is perverse. It has been further held that if the award is not irrational or perverse, the High Court should not interfere with the reasons in the award. Further, it has been held that this Court should not re-appreciate the evidence placed before the Labour Court and substitute its own conclusions, merely because this Court is of the opinion that a different conclusion could have been arrived at on the available evidence. Bearing this legal principle in mind, this Court proceeds to examine the correctness of the impugned award.

11. Therefore, in the absence of any evidence, placed by the Management before the Labour Court, to show that Arokiyasamy is not the employee of the Management, the reinstatement with continuity of service ordered by the Labour Court cannot be interfered with.

12. In the light of the above discussion, I am not inclined to interfere with the order of the Labour Court, Cuddalore, passed in I.D.No.35 of 1997, dated 24.12.2010 and therefore, this writ petition stands dismissed. No Costs. Consequently, connected miscellaneous petition is also dismissed. However, the Management is directed to provide all the benefits as ordered by the Labour Court



in favour of the said Arokiyasamy, within a period of eight (8) weeks from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar ()

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// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PJL

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Presiding Officer,
Labour Court,
Cuddalore.

+1 CC to Mr.R.VIJAYA KUMAR, Advocate (SR-6280[F] dated 19/02/2021)

W.P. (MD) .No.13211 of 2011

18.02.2021

VB (18.03.2021) 4P 3C