



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **22.02.2021**

CORAM:

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

W.P. (MD) No.13471 of 2011

WEB COPY

S.Jeyaraman

... Petitioner

Vs.

1.The Presiding Officer,
Labour Court,
District Court Complex,
Melur Road, Madurai-20.

2.Tamil Nadu Water Supply and Drainage Board,
No.31, Kamarajar Salai,
Chepauk, Chennai-600 005.
through its Managing Director.

3.The Executive Engineer,
Tamil Nadu Water Supply and Drainage Board,
Rural Water Supply Division,
84, Bharathi Main Road,
N.R.T.Nagar, Theni.

... 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 of the 1st respondent in C.P.No.94 of 2006 and quash the order dated 28.07.2011 passed therein.

For Petitioner : Mr.T.Ravichandran
For R2 and R3 : Mrs.Porkodi Karnan
Standing Counsel

O R D E R

This writ petition has been filed by the petitioner seeking for an issuance of a writ of Certiorari, to call for the records of the first respondent in C.P.No.94 of 2006 and quash the order dated 28.07.2011 passed therein.

2.The case of the petitioner is that he joined the service of the third respondent as NMR Watchman on 15.01.1986 and he was receiving a monthly salary of Rs.5189/-. On certain allegations, the petitioner was dismissed from service. As against the said order of dismissal, the petitioner has raised an industrial dispute before the first respondent in I.D.No.570 of 1989. After hearing both



parties, the first respondent had passed an award, dated 28.07.2011 directing the respondents to reinstate the petitioner into service with back wages. Therefore, the petitioner was reinstated into service on 04.02.1995, but, the back wages as directed by the Labour Court for the non employment period ie., 12.06.1989 to 03.02.1995, was not paid. For non payment of wages for the aforesaid period, the petitioner has filed a claim petition in C.P.No.94 of 2006, before the first respondent under Section 33C(2) of I.D Act, by calculating the amount at Rs.1,76,373/-.

3.Before the Labour Court, on the side of the petitioner/workman, he examined himself as a witness and Exs.P.1 to 7 were marked and on behalf of the respondents/Management, one Palani, was examined as a witness and Exs.R.1 to 3 were marked.

4.After trial, the Labour Court directed the respondents/Management to pay the arrears of back wages as daily-rated employee, during the non-employment period ie., 12.06.1989 to 03.02.1995. For non-payment of back wages on par with other employees, the present writ petition is filed by the petitioner/workman.

5.The learned counsel appearing for the petitioner submitted that as per the award of the Labour Court, dated 21.09.1992, the petitioner is entitled to get back wages from the date of termination to till the date of reinstatement. Hence, he prays for allowing the present writ petition.

6.The learned Standing Counsel appearing for the respondents/Management submitted that while the petitioner was in service, on certain allegations, he was dismissed from service and as against the said dismissal order, the petitioner has raised industrial dispute before the first respondent, wherein the labour Court has directed the respondents/Management to reinstate the petitioner into service and pay the back wages. He further submitted that the Labour Court has rightly passed an award for payment of wages as daily-rated employee, during the non-employment period. The petitioner cannot compare with other regular employees, since the petitioner's service was not regularized, at the relevant point of time. Hence, he prays for dismissal of the present Writ Petition.

7.Heard the learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondents 2 and 3 and perused the materials available on record.

8.The facts in the present case are not in dispute. Admittedly, the petitioner joined as NMR Watchman in the third respondent/Management, in the year 1986. While he was working as NMR Watchman, he was dismissed from service. Challenging the said dismissal order, he raised an industrial dispute before the first respondent/Management, in the year 1989. The Labour Court has passed an



award in favour of the petitioner. However, the petitioner claimed that he is entitled for back wages, on par with other regular employees. Further, on perusal of the award of the Labour Court, it is seen that the petitioner has completed 3 ½ years of service and his service was not regularized, at the relevant point of time. The said facts also not in dispute and the petitioner was entered into service in the year 1986 and since then he was working as daily-rated employee, his service was not regularised. Hence, the prayer sought for in this writ petition cannot be granted. Hence, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (w)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To

1.The Presiding Officer,
Labour Court,
District Court Complex,
Melur Road, Madurai-20.

+1 CC to M/s.POLAX LEGAL SOLUTIONS, Advocate(SR-6575[F] dated
23/02/2021)

W.P. (MD)No.13471 of 2011
22.02.2021

JC/26.04.2021/2p/3c