



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.03.2021

CORAM:

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

W.P. (MD)No.14779 of 2012

and

M.P. (MD) .No.1 of 2012

WEB COPY

The Regional Manager,
Tamil Nadu Civil Supplies Corporation Ltd.,
Tirunelveli Region,
St.Thomas Road,
Palayamkottai,
Tirunelveli.

.. Petitioner

Vs

1.The Presiding Officer,
Labour Court,
Tirunelveli.
2.P.Subramaniyan
3.P.Chandramohan
4.V.Murugan
5.A.Ramesh
6.V.Annadurai
7.T.Sundaram
8.M.Mariappan

.. 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 29.5.2012 in C.P.No.9 of 2012 on the file of the 1st respondent herein and quash the same.

For Petitioner : Mr. G.Mohankumar
for M/s.R.Vijayakumar

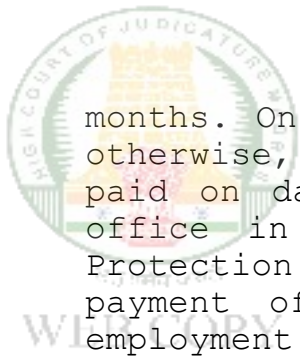
For Respondent No.1 : Labour Court

For Respondent Nos.2 to 8: No appearance

O R D E R

This writ petition has been filed for the issue of Writ of Certiorari, to call for the records pertaining to the impugned Award dated 29.5.2012 in C.P.No.9 of 2012 on the file of the 1st respondent herein and quash the same.

2. The case of the petitioner is that the petitioner is working as Regional Manager in the Tamilnadu Civil Supplies Corporation and the respondents 2 to 8 were engaged as Loadman. The said respondents were engaged only based on requirement and not during all days and

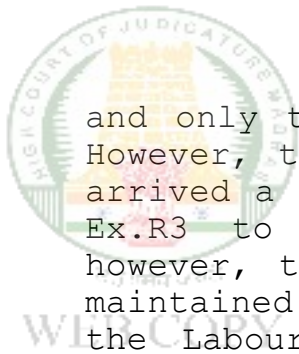


months. On the day they are engaged they are entitled for payment, otherwise, they are not entitled for payment and hence, they are paid on daily basis. While so, a circular was issued by the head office in terms of G.O.Ms.No.93 Cooperative, Food and Consumer Protection (A1) Department dated 12.10.2011 which provided for the payment of Bonus and Ex-gratia amount based on the nature of employment and number of days of work. Further, the respondents 2 to 8 filed claim petition in C.P.No.9 of 2012 under Section 33-C(5) of the Industrial Disputes Act, on the file of the 1st respondent herein seeking a direction against the Corporation to pay the sum of rupees as per the Annexure to the claim petition, in terms of the above said G.O. The petitioner Corporation filed a detailed counter in the above claim petition contending that the claim petition itself is not maintainable and that the said respondents are covered under para 3 of the said G.O., and accordingly, they were already paid Rs.1,500/- as they have worked only for two months with the corporation during February and March, 2011. However, the Labour Court arrived a conclusion on the strength of Ex.P1, which shows that the respondents 2 to 8 herein have worked for more than two months and accordingly allowed the claim petition in favour of the respondents 2 to 8. Challenging the same, the petitioner Corporation filed this writ petition.

3. The learned counsel for the petitioner would submit that admittedly, the private respondents are worked as daily wages and they have worked for two months only, ie., February and March, 2011. Though the petitioner Corporation disputed the Annexure filed by the private respondents, by marking Ex.R3 in which the go-down supervisor categorically given a letter saying that the attendance register, which was produced by the private respondents as Ex.P1 before the Labour Court was issued mistakenly and subsequently, the same was cancelled. But, without considering the said Ex.R3, the Labour Court arrived a conclusion in favour of the private respondents is not sustainable one. Accordingly, he prayed for allowing this writ petition.

4. Heard the learned counsel appearing on behalf of the petitioner Corporation and no one appeared on behalf of the respondents 2 to 8. This Court has also perused the materials placed before this Court.

5. Considering the facts and circumstances of the case, the facts in the present case are not in dispute. The private respondents were engaged as daily wage labours in the petitioner Corporation. The crucial issue arising for consideration in the present case is whether the private respondents have worked as per Ex.P1 from the month of April, 2010 to March, 2011 or not. If they worked for 12 months, the calculation memo submitted by the private respondents before the Labour Court is admissible one. At the same time, the petitioner Corporation claimed that as per Ex.R3, the



and only they rendered service for two months in the Corporation. However, the Labour Court had elaborately discussed this issue and arrived a conclusion that though the petitioner Corporation marked Ex.R3 to disprove the employment of the private respondents, however, the Corporation failed to produce the attendance register maintained by the Corporation for confirming the Ex.R3 and hence, the Labour Court arrived a conclusion in favour of the private respondents. When the petitioner Corporation failed to mark the attendance register, the Labour Court has no hesitation to accept the Annexure Ex.P1 filed by the private respondents. Hence, this Court do not find any illegality or irregularity in the award passed by the Labour Court and hence, this Court is not inclined to interfere with the order of the Labour Court.

6. Accordingly, the writ petition stands dismissed and the award passed by the Labour Court in C.P.No.9 of 2012, dated 29.5.2012 is confirmed herewith. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// 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 Labour Court,
Tirunelveli.

+1 CC to M/s.R.VIJAYAKUMAR, Advocate (SR-9942[F] dated 10/03/2021)

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