



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:21.01.2021

CORAM:

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

W.P. (MD)No.6416 of 2011

and

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

and

MP (MD)No.1 of 2012

Agricultural Chemist, Soil Testing Laboratory,
Government of Tamil Nadu
Agricultural Department,
37, Sankar Colony, Tiruchendur Road,
Palayamkottai, Tirunelveli-2

...Petitioner

Vs.

1.The Presiding Officer,
Labour Court, Tirunelveli.
2.P.Lakshmanan

...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the award passed in I.D.No.31 of 2002 on the file of the 1st respondent dated 20.01.2011 and quash the same.

For Petitioner	:Mr.M.Muthugeethayan Special Government Pleader
For R2	:Mr.L.Krishnamoorthy No appearance

O R D E R

This writ petition has been filed by the petitioner, to call for the records relating to the award passed in I.D.No.31 of 2002, on the file of the first respondent, dated 20.01.2011 and quash the same.

2.The case of the petitioner is that the petitioner is the Agricultural Chemist Soil Testing Laboratory and the second respondent is the workman and the second respondent was a daily wage labour in the Soil Testing Laboratory and he has obtained an award, dated 20.01.2011 in I.D.No.31 of 2002 in his favour. The Labour Court has directed the petitioner Laboratory to reinstate the second respondent with continuity of service and back wages. Challenging the same, the petitioner Laboratory has filed the present Writ Petition with the aforesaid prayer.



3.Despite service of notice, the second respondent has not chosen to appear before this Court either through counsel or in person to contest the Writ Petition.

4.On the side of the second respondent/employee, one witness was examined and the documents Ex.P.1 to Ex.P.33 were marked and on behalf of the petitioner Laboratory, one witness was examined and the documents Ex.R.1 and Ex.R.2 were marked.

5.After analysing oral and documentary evidence, the Labour Court has arrived a conclusion that the second respondent worked for more than 240 days as daily wage employee and passed an award that the second respondent is entitled to continuity of service as daily wage employee and further directed the petitioner/Laboratory to pay the balance salary to the second respondent. As against the award of the Labour Court, the present writ petition is filed.

6.The learned Special Government Pleader appearing for the petitioner submitted that the award passed by the Labour Court in favour of the contesting respondent and the said award was put to challenge by the Management before this Court. During the pendency of the present writ petition, this Court granted the wages under Section 17(B) Industrial Disputes Act, to the second respondent. Aggrieved by the said order, the petitioner Laboratory has filed an appeal before the Division Bench of this Court in W.A.(MD)No.97 of 2014 and the same was disposed of on 07.06.2019. In the mean time, the second respondent was reinstated into service as daily wage employee and all the benefits were paid, for the period on which he worked in the petitioner Laboratory. Further, the learned Special Government Pleader submitted that the petitioner Laboratory is not coming within the meaning of Industry, as per the definition of Industrial Disputes Act. Therefore, the second respondent is not coming within the meaning of workman as defined by the Industrial Disputes Act. Hence, he prays for allowing the present writ petition.

7.Heard the learned Special Government Pleader appearing for the petitioner Laboratory and carefully perused the materials placed on record.

8.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



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.

9. The facts in the present case are not in dispute. Admittedly, the second respondent was a workman in the petitioner Soil Testing Laboratory and he was a daily wage labour and all of a sudden, the petitioner terminated the service of the second respondent and hence, the second respondent approached the Labour Court. A perusal of the award passed by the Labour Court dated 20.01.2011 reveals that the second respondent raised an industrial dispute on the ground that he was engaged as a Laboratory Assistant on 03.07.1998 and he continued to work till 22.05.2001 and thereafter, the petitioner laboratory orally terminated the second respondent and at that time, the second respondent received monthly salary of Rs.1,650/-. After considering the oral and documentary evidences placed on record, the Labour Court has directed the petitioner Laboratory to reinstate the second respondent with continuity of service, which is in accordance with law and does not need any interference. Further, the Labour Court has not analyzed the fact that whether the second respondent/workman gainfully employed, during the period of dismissal. Therefore, this Court has denied the backwages to the second respondent/workman.

10. In the light of the above discussion, this Writ Petition is dismissed. No costs. However, the second respondent/workman is entitled for reinstatement with continuity of service without backwages. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To:

1. The Presiding Officer,
Labour Court, Tirunelveli.

+1 CC to Special Government Pleader SR.1866/2021

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