



WEB COPY

W.P(MD) Nos. 14866 to 14868 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:25.11.2021

CORAM:

THE HONOURABLE MRS.JUSTICE S. SRIMATHY
W.P(MD) Nos. 14866 to 14868 of 2013 and
M.P(MD) .Nos.1, 1 of 2013 in
WP(MD) .Nos.14867 and 14868 of 2013

1.The Chief Conservator of Forests,
Panagal Building,
No.1, Geenius road,
Saidapet, Chennai -15

2.Conservator of Forest,
Race Course Road,
Madurai -2.

3.The Divisional Forest Officer,
Social Forestry Division,
Madurai Division,
Bharathi Ula Street,
K.Pudur, Madurai - 2.

...Petitioner 1 to 3 in all WPs

4.The District Forest Officer,
Theni Division,
KRR Nagar,
Theni.

...4th Petitioner in WP(MD).
Nos.14866 of 2013 & 14868 of 2013

.vs.

1.P. Periyasamy

... R1 in W.P(MD) .No.14866/2013

2. M. Sundararajan

...1st respondent in W.P(MD) .No.14867/13

3.K. Kasimayan (died)

1.Maheswari
2.Kasirajan
3.Gopalakrishnan

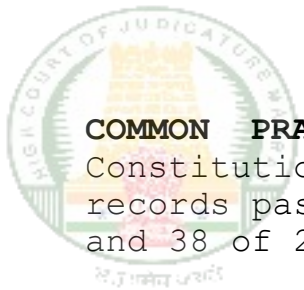
... Respondents 1 to 3 in
W.P(MD) .No.14868/13

(R1 to R3 substituted vide order dated
25.11.2021 made in WMP(MD) .No.17465 of 2021
in WP(MD) .14868 of 2013)

2.The Deputy Commissioner of Labour,
Madurai.

...2nd Respondent in all W.Ps.

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COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of to issue a Writ of Certiorari to call for the records passed by the 2nd respondent in MW. No.28 of 2010, 08 of 2009 and 38 of 2010, dated 18.12.2012 quash the same.

For Petitioners : M/s. D. Farjana Ghoushia
in all W.Ps. Special Government Pleader

For 1st respondent
in all W.Ps : Mr. T.Lenin Kumar

COMMON ORDER

These Writ Petitions have been filed to quash the impugned orders passed by the 2nd respondent, Deputy Commissioner of Labour in MWs. No.28 of 2010, 08 of 2009 and 38 of 2010, dated 18.12.2012. The respondents herein / petitioner before DCL has claimed minimum wages as per Minimum Wages Act

2. The first respondent / employee in all the Writ Petitions are working under the 3rd and 4th petitioner. The employees have stated that their employment category is listed Section 2(G) of Minimum Wages Act and the petitioners are the employer and therefore the employee in the Writ Petitions are entitled to the minimum wages as per G.O.309 L&E Department, dated 29.04.2003 and G.O.No.103 L&E Department, dated 29.09.1999 and they have claimed a sum of Rs.1,18,055.25/- as due for him. This claim is denied by the petitioners stating that this employment cannot come under the skilled / semi skilled work. Moreover, in Social Forestry, the persons considered for employment under Sweedish International Development Authority project (in short SIDA) on consolidated pay to the tune of Rs.818/- per month. Even after the completion of the scheme, the 1st respondents in the all the writ petitions were allowed to work under the above project. Thereafter, G.O.No.106, Environmental Forest FR II, dated 21.09.2006 was passed increasing salary of Rs.2126/- from 01.09.2006.

3. It is the claim of the Writ Petitioners / employers that Social Forestry category is exempted from the Minimum Wages Act. The employees have not challenged the above said G.O., and thereafter, now, the employees cannot claim any benefit. Again, a request was made to the State the Government, who in turn has passed G.O.No.222, dated 10.06.1992 and G.O.No.225, dated 11.06.1992 and their employment have been regularized as and when vacancies arises. Thereafter, vide G.O.No.297, dated 28.11.1994 Educational Qualifications were prescribed. When a claim was placed before the Deputy Commissioner of Labour, Madurai, the Writ Petitioners officials are not present for the hearing. Hence, an ex parte order was passed. Challenging the same, the present Writ Petitions have been filed.

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



4. The Writ Petitioners are relying on G.O.No.82 L & E Department, dated 27.09.2002 stating the Minimum Wages Act does not apply to the Social Forestry workers of the Forest Department.

5. Heard the learned Special Government Pleader appearing for the petitioners and the learned Counsel appearing for the 1st respondent in all the Writ Petitions.

6. On perusal of G.O.No.82, admittedly, it is stated the minimum wages Act is not applicable to the Department of Forestry and plot watchers, but the said G.O has not granted any retrospective effect. The claim of the first respondent in the Writ Petitions that G.O.No.82 L & E Department was issued on 27.09.2002 and there is no retrospective effect, the G.O applies only prospectively. The first respondent in all the Writ Petitions were appointed in the year 1982 itself and they are entitled to Minimum Wages Act. The counsel for the first respondent have also produced the order passed by this Court in W.P(MD).Nos.14516 of 2010 etc., batch, wherein this Court vide order dated 04.12.2019 dismissed the Writ Petitions and directed the petitioners to pay the Minimum Wages to the employers. There is one another Division Bench Judgment made in W.A(MD).Nos.991 to 993 of 2021 has dismissed the claim of the official appellants.

7. Following the earlier Judgements, the Writ Petitions are dismissed. The petitioners are directed to pay the amount to the first respondent in all the Writ Petitions within a period of 12 weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

trp

To

The Deputy Commissioner of Labour, Madurai.

+1 CC to M/S.SPL GP, SR-36284 dated 29/11/2021

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M.P(MD).Nos.1, 1 of 2013 in
WP(MD).Nos.14867 and 14868 of 2013
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