



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.12.2021

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THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P.(MD)No.18733 of 2013

and

M.P.(MD)No.1 of 2014

WEB COPY

The Executive Engineer,
TWAD Board,
RWS Division, Pudukkottai.

... Petitioner

vs.

1.The Presiding Officer,
Labour Court, (Camp at)
Pudukkottai, Tiruchirappalli.

2.A.Syed Mohammad

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records pertaining to the impugned order in ID.No.51/08, dated 27.09.2012, passed by the first respondent and quash the same.

For Petitioner : Mr.R.Satheesh
For R-1 : Labour Court
For R-2 : Mr.T.Antony Arul Raj

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorari, to call for the records pertaining to the impugned order in ID.No.51/08, dated 27.09.2012, passed by the first respondent and quash the same.

2.The brief facts of the case are that the second respondent was appointed as an Electrician on 09.03.1984, on temporary basis for a period of 90 days and on the basis of payment on his work. If there is no work, the second respondent will not be paid. The second respondent absented himself / absconded from work without making any report to the petitioner Board and the second respondent did not return back for years together. It is the allegation of the petitioner Board that the second respondent has went abroad.

3.After coming back from abroad in year 2008, the second respondent raised an industrial dispute. The petitioner also admitted that the second respondent was working in the Board as



more than 24 years. The claim of the second respondent is that he was infected with jaundice and he was taking treatment.

4. Heard Mr.R.Satheesh, learned Standing Counsel appearing for the petitioner and Mr.T.Antony Arul Raj, learned Counsel appearing for the second respondent.

5. The second respondent's claim that he was infected with jaundice and therefore, he was not able to join duty could never be accepted, since the second respondent was absent for more than 24 years. It is seen from the record that the second respondent worked for 90 days in the year 1984 alone and thereafter, he had not returned back to work. It can be safely stated that from 1985 to 2008, the second respondent has not returned and in the year 2008, he preferred an industrial dispute. The Labour Court has not taken this factor into account that after lapse of 24 years, the second respondent has raised industrial dispute. Even though the Labour Court has granted reinstatement without backwages and continuity of service, it is stated that the second respondent is aged above 60 years. There will not be any purpose of granting any reinstatement of the second respondent. Hence, this court is inclined to set aside the order passed by the Labour Court in ID.No.51/08, dated 27.09.2012.

6. Accordingly, the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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, (Camp at)
Pudukkottai, Tiruchirappalli.

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