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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :16.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE V. BHARATHIDASAN

and

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.A. (MD)Nos.1747 and 1748 of 2021

and

C.M.P (MD)Nos.7397 and 7398 of 2021

W.A. (MD)No.1747 of 2021

- 1.The Managing Director,
Tamil Nadu Water Supply and Drainage Board,
31, Kamarajar Salai,
Chepauk,
Chennai 600 005.
- 2.The Executive Engineer,
Tamil Nadu Water Supply and Drainage Board,
Maintenance Division,
28, K.Central Plaza Building,
Salai Theru,
Ramanathapuram. ... Appellants/Petitioners/Petitioners

-vs-

- 1.The Presiding Officer,
Labour Court,
Madurai.
- 2.P.Manikandan
- 3.Thirumurugan
- 4.B.Mathanprasath
- 5.M.Sathishkumar
- 6.K.Pandian
- 7.N.Balavijayakumar
- 8.S.Ayyathevan ... Respondents/Respondents/Respondents

PRAYER: Writ Appeal has been filed under Clause 15 of the Letters Patent, against the interim order passed by this Court in W.M.P. (MD).No.7213 of 2016 in W.P.(MD).No.9074 of 2016, dated 19.07.2021.

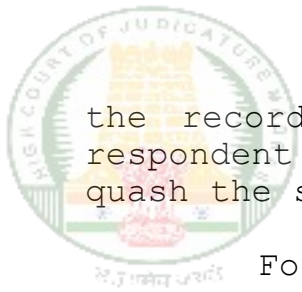
Prayer in WMP(MD). 7213/ 2016 in WP(MD)No.9074 of 2016:

To Stay the operation of the impugned order passed by the 1st respondent in CP.No. 43/2014 to C.P.No. 49/2014 dated 28.01.2016.

Prayer in WP(MD). 9074/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari calling for

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the records pertaining to the impugned order passed by the 1st respondent in CP.No. 43/2014 to C.P.No. 49/2014 dated 28.01.2016 and quash the same.

For Appellants : Mr.Baskaran
Additional Advocate General
Assisted by Mrs.Porkodi Karnan
For R2 to R8 : Mr.Sivakumar

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W.A. (MD)No.1748 of 2021

- 1.The Managing Director,
Tamil Nadu Water Supply and Drainage Board,
31, Kamarajar Salai,
Chepauk,
Chennai 600 005.
- 2.The Executive Engineer,
Tamil Nadu Water Supply and Drainage Board,
Maintenance Division,
Ganesh Nagar,
Opposite to Mattuthavani,
Madurai - 625 007. ... Appellants/Petitioners/Petitioners

-vs-

- 1.The Presiding Officer,
Labour Court,
Madurai.
- 2.A.Bhagaathi Paramasivam
- 3.R.Alagarraja
- 4.A.Velmurugan
- 5.M.Pitchaimani
- 6.R.Prabukumar
- 7.D.Gurusamy
- 8.N.Ravichandran ... Respondents/Respondents/Respondents

PRAYER : Writ Appeal has been filed under Clause 15 of the Letters Patent, against the interim order passed by this Court in W.M.P. (MD) No.7212 of 2016 in W.P.(MD)No.9073 of 2016, dated 19.07.2021.

Prayer in WMP(MD) . 7212/ 2016 :

To Stay the operation of the impugned order passed by the 1st respondent in CP.No. 36/2014 to C.P.No. 42/2014 dated 28.01.2016.

Prayer in WP(MD) . 9073/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari calling for the records pertaining to the impugned order passed by the 1st

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respondent in CP.No. 36/2014 to C.P.No. 42/2014 dated 28.01.2016 and quash the same.

For Appellants : Mr.Baskaran
Additional Advocate General
Assisted by Mrs.Porkodi Karnan
For R2 to R8 : Mr.Sivakumar

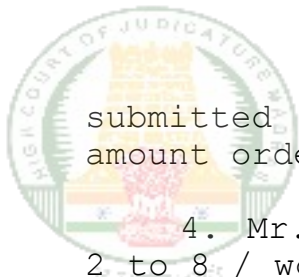
C O M M O N J U D G M E N T

(Judgment of the Court was delivered by V.BHARATHIDASAN,J.)

Challenging the interim order passed by the learned single Judge in W.P.(MD).Nos.9073 and 9074 of 2016 and W.M.P.(MD).Nos.7212 and 7213 of 2016, the present writ appeals have been filed.

2. The respondents/workmen earlier filed a writ petition in W.P.(MD).No.3809 of 2004, seeking for regularisation of their service and this Court, by an order dated 09.02.2012, allowed the writ petition, thereby directing the appellants/Tamil Nadu Water Supply and Drainage Board to regularise the service of the workmen. That order was challenged by the Board in W.A.No.1644 of 2012 and ultimately, the Supreme Court dismissed the Special Leave Petition Nos.35106 to 35107 of 2012 filed by the Board. Thereafter, the workmen approached the Labour Court under Section 33 C(2) of the Industrial Disputes Act, 1947, seeking for arrears of salary and allowances and the Labour Court, by an order dated 28.01.2016, allowed the applications and directed the Board to pay the back wages to the workmen. Challenging the above order, the appellant Board filed W.P.(MD).Nos.9073 and 9074 of 2016 before this Court. Initially, at the time of admission i.e., on 04.05.2016, interim stay was granted in W.M.P.(MD).Nos.7212 and 7213 of 2016 in W.P.(MD).Nos.9073 and 9074 of 2016. Subsequently, by order dated 19.07.2021, the learned single Judge vacated the interim order and directed the Board to deposit the entire amount due as per the impugned orders and so far as the interest payable to the workmen for the belated payment of the wages, the learned single Judge directed the appellant Board to show cause as to why the interest has not been paid to them. Now, challenging the above said orders, the present appeals have been filed.

3. Mr.Baskaran, learned Additional Advocate General appearing for the Board would submit that even though the order granting permanent status to the workmen was confirmed by the Supreme Court, so far as the payment of wages is concerned, arguable points are available to the appellant Board. But, without considering the same, the learned single Judge directed the appellant Board to deposit the entire wages within a short time. Hence, the differential amount payable comes to Rs.3.5 crores. Due to some financial defects, the Board is not in a position to pay the entire amount. He further



submitted that the Board may be permitted to deposit 50% of the amount ordered by the Labour Court.

4. Mr.Sivakumar, learned counsel appearing for the respondents 2 to 8 / workmen contended that the Writ Petition was allowed in the year 2012 and for more than nine years, the appellant Board is not paying the wages payable to the workmen. The Labour Court also considering the entire materials correctly awarded the amount and there is no irregularity in the order passed by the labour court and only in order to delay the payment, the present writ petitions have been filed. In the above circumstances, the learned judge directed the board to deposit the entire amount and there is no illegality and irregularity.

5. We have considered the rival submissions and perused the materials available on record.

6. The learned single Judge, directed the appellant Board, to deposit the amount, mainly on the ground that once the permanent status is granted to the workmen, they are legally entitled to get the differential wages. However, from the perusal of records, We find some arguable points involved in the writ petition.

7. Considering the facts and circumstance of the case, we are inclined to modify the order passed by the learned single Judge, the appellant Board is directed to deposit 50% of the amount as ordered by the Labour Court on or before 25.10.2021. So far as the order passed by the learned single Judge regarding the payment of interest, the appellants are directed to submit their reply, regarding awarding of interest and that issue would be decided in the main writ petition.

8. Considering the fact that the matter is involved in payment of wages to the workmen, we request the learned single Judge to take up the main Writ Petition and dispose of the same as expeditiously as possible, preferably within a period of three months from the date of receipt of a copy of this order from today.

9. In the result, these Writ Appeals are disposed of. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-II)

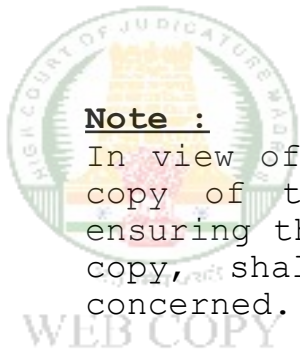
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Sub Assistant Registrar(CS)

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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,
Madurai.

+1 CC to M/s.LAKSHMI GOPINATHAN, Advocate (SR-29498[F]
dated 17/09/2021)

+2 CC to M/s.N.SEKAR, Advocate (SR-29647 and 29648[F] dated
20/09/2021)

Judgment made in
W.A. (MD) .Nos.1747 and 1748 of 2021
16.09.2021

GC(01.10.2021) 5P 5C