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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2022

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.NO.30715 OF 2013
AND M.P.NOS.1 & 2 OF 2013

1.The District Forest Officer,
Interface Forestry Division,
Krishnagiri.

2.The Conservator of Forests
Dharmapuri.

...Petitioners

Vs.

B.Barurkhan (Late)

1.Lingammal

2.Mathiyalagan

3.Shanmugam

4.Chandra

5.Minor. Sakthivel

(Since the death of the respondent,
their legal heirs are impleaded as
respondents 1 to 5 in I.A.No.23 of 2011
dated 10.02.2011)

6.The Presiding Officer,
Principal Labour Court,
Salem, Salem District.

...Respondents

Prayer : Writ Petition filed under Article 226 of the
Constitution of India, praying to issue a Writ of Certiorari,
calling for the records of the 2nd respondent in I.D.No.73 of
2008 dated 03.06.2013 and quash the same.

For Petitioners : Mr.T.Arunkumar
Additional Government Pleader (Forests)

For Respondents : Mr.M.R.Jothimanian [R1]
R6 - Court



ORDER

The first respondent/workman was appointed as a Plot Watcher in the Forest Department on 01.09.1984. The Government had issued an order in G.O.Ms.No.64, Environment and Forest Department, dated 08.03.1999 for appointment of Forest Watchers in the regular post, among the Plot Watchers, from the state wide seniority list of Plot Watchers. Admittedly, the name of the workman finds place in the state wide seniority list.

2. The case of the workman is that he was orally terminated on 08.09.1989. Aggrieved against the termination, the workman raised an Industrial Dispute in I.D.No.73 of 2008 before the Labour Court, Salem and by an Award dated 03.06.2013, the workman was directed to be paid back wages, together with continuity of service and other monetary benefits. His claim for reinstatement had become infructuous, since the Forest Department had already reinstated him into service.

3. The present workman is a part of various other similarly placed Plot Watchers/Tending Watchers in the Forest Department, whose services were orally terminated and when these similarly placed Forest Watchers had challenged the oral termination before the Labour Court, Awards were passed in their favor, which came to be challenged by the Forest Department before this Court in a batch of Writ Petitions in W.P.No.24601 of 2005 etc., and by an order dated 08.08.2011, all these writ petitions were dismissed. The further appeals made by the Department in W.A.Nos.2183 to 2188 of 2012 etc., before the Division Bench and SLP (Civil) Nos.24930 to 24958 of 2013 before the Supreme Court, were also dismissed on 17.10.2012 and 30.06.2014 respectively. Following these orders passed in the batch of writ petitions, the challenge made to other Awards of the Labour Court in similarly placed cases were also dismissed by this Court, in which the case of 'Management, The Conservator of Forest Vs. V.Devendran and another' passed in W.P.No.7914 of 2011 dated 29.03.2019, is one. The relevant portion of the above said order reads as follows:-

..... "5. In similar circumstances, the plot watchers have approached the labour court for regularising their employment and their disputes were allowed, against which a batch of writ petitions have been filed by the department before this Court in W.P.No.24601 of 2005 etc., This Court, dismissed the entire batch of writ petitions filed by the department on 08.08.2011, against which Writ Appeals were filed in W.A.Nos.2183 of 2012 etc., and the appeals were also dismissed by the Division Bench of this Court on 17.10.2012. The department, further approached the Honourable Supreme Court of India in S.L.P.(C)



Nos.24930 to 24939 of 2013 and the Honourable Supreme Court dismissed all the S.L.Ps filed by the department by an order dated 30.06.2014.

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6. Learned counsel for the petitioner / forest department has not disputed the above narration of facts. However, he submitted that the issue whether the forest department comes within the definition of industry or not was not decided and therefore, the award by the labour court needs to be interefered with by this Court. In any event, such a submission cannot be appreciated at this stage, in view of the similar awards being challenged by the forest department in a batch of writ petitions before this Court and those writ petitions were dismissed by this Court on 08.08.2011 and the dismissal of the writ petitions was also confirmed in the Writ Appeals and further confirmed by the dismissal of the S.L.Ps filed by the department. Therefore, the issue whether the petitioner department is an industry or not cannot be adjudicated at this stage, since similarly placed plot watchers have got the benefit of the award of the labour court, which was confirmed by this Court as well as the Honourable Supreme Court.

7. From the award passed by the labour Court, this Court is able to see that the first respondent workman has been unjustly and illegally terminated and therefore the labour court has rightly interfered with the termination and ordered reinstatement of the workman with backwages and continuity of service. In any event, it is an admitted case that the first respondent's name is found in the state wide seniority list maintained by the petitioner department and therefore, he is entitled to be considered for regular employment on the basis of the Government Order issued in this regard. Moreover, this Court finds that the original award was passed in the year 2005 and the writ petition came to be filed only in the year 2011, after a period of six years, for which no proper explanation has been tendered in the affidavit filed in support of the writ petition. This Court is of the view that even on the ground of laches alone, this writ petition has to be dismissed. Even otherwise, this Court is of the view that the first respondent workman has been successful before the labour court on the basis of merits of his claim and the labour court has passed a well considered award, which is impugned in this writ petition."



4. The aforesaid extract is self-explanatory. The case in hand is identical to that of the order passed in the aforesaid writ petition and as such, the prayer sought for by the petitioner herein, challenging the Award, cannot be sustained.

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5. In the light of the above findings, this Court does not find any infirmity in the Award passed by the Labour Court and the same has to be confirmed without any modification. This Court also finds that the petitioner/Department has not placed sufficient grounds for assailing the Award passed by the Labour Court and as such, the Award of the Labour Court requires to be upheld and the first respondent/workman would be entitled to the benefits of the Award passed by the Labour Court.

6. Accordingly, this Court finds no merits in the Writ Petition and the same is dismissed. The petitioner/Department is directed to implement the Award passed by the Labour Court, in its letter and spirit, within a period of eight (8) weeks from the date of receipt of a copy of this order. No costs. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-V)

// True Copy //

Sub Assistant Registrar

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To

- 1.The Presiding Officer
Principal Labour court
Salem, Salem District.
- 2.The District Forest Officer,
Interface Forestry Division,
Krishnagiri.
- 3.The Conservator of Forests,
Dharmapuri.

W.P.No.30715 of 2013

RP(CO)
RVM(05/04/2022)