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W.P.Nos.26286 to 26299 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.26286 to 26299 of 2016
and W.M.P.Nos.22535 to 22548 of 2016

W.P.No.26286 of 2016

1.The Conservator of Forest,
Salem Division,
Asthampatti,
Salem District.

2.The Divisional Forest Officer,
Interface Forest,
Asthampatti,
Salem District.

... Petitioners

Vs.

1.L.Govindarajan

2.The Presiding Officer,
Labour Court,
Salem.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records in I.D. No.123/09 dated 03.09.2013 on the file of the 2nd respondent and quash the same.



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For Petitioners : Mr.V.Jeevagiridharan
in all W.Ps Additional Government Pleader (Forests)

For Respondents : Mrs.K.Jenitha for R1
in W.P.Nos.26286, 26287, 26290, 26291 &
26299 of 2016

Mr.R.M.D.Nasrullah for R1
in W.P.Nos.26289, 26292, 26293, 26294,
26295,
26297 & 26298 of 2016

Labour Court for R2 in all W.Ps.

COMMON ORDER

The Award of the Labour Court in ID.Nos.123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135 & 136/09 dated 03.09.2013, respectively are under challenge in the present writ petitions.

2.The Conservator of Forest and the Divisional Forest Officer are the petitioner in all these writ petitions. The learned counsel for the petitioner made a submission that the Labour Court has no jurisdiction to entertain the service disputes relating to the employees appointed by the Government Department. Forest Department is a Government Department and the employees appointed



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on temporary basis are also governed under the Rules and Regulations issued by the Government, more specifically, applicable to the Forest Department. Thus, the Labour Court had erroneously entertained the industrial dispute filed by the respondents under Section 2(A)(2) of the Industrial Disputes Act. That apart, the respondents who were engaged as Plot Watchers on daily wage basis were considered subsequently for permanent absorption and all the respondents were permanently absorbed in the sanctioned post in the time scale of pay and their services were regularized and thereafter, they served and retired from service on attaining their respective age of superannuation. Therefore, the cause did not exist as of now. The services of this Plot Watchers were considered under the Government Service Rules and now they are retired employees and receiving the pensionary benefits under the Tamil Nadu Pension Rules and other relevant Government Orders in force. The temporary services were also considered based on the Pension Rules and the other Service Rules applicable and therefore, the Award of the Labour Court lost its relevance and thus, these writ petitions are to be considered.

3. That apart, the learned counsel for the petitioners reiterated that the respondents were discharged from services on 08.09.1989 and they have filed



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the industrial dispute in the year 2009. After a lapse of about twenty years from the date of their discharge, they are claiming certain monetary benefits. However, the Government considered their cases and permanently absorbed those Plot Watchers in the sanctioned post and therefore, Labour Court Award lost its significance and the same cannot be implemented. Since the Labour Court Award was without jurisdiction and cannot be implemented, the petitioners have chosen to file the present writ petitions.

4.Regarding the Government services, the special Rules applicable to the post will prevail over the general law. When the Service Rules are applicable and governing the service conditions of the temporary employee of the Forest Department, the same alone is to be applied in respect of the dispute between the Government and its employees. Thus, the Labour Court has no jurisdiction to entertain industrial dispute in respect of the Government services which all are governed under the special Rules applicable to the particular Department. It is needless to state that the special Rules will prevail over the general rules and therefore, the Labour Court has erroneously assumed the jurisdiction and passed an Award granting the relief in favour of the temporary Plot Watchers working in the Forest Department of the Government of Tamil Nadu.



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5.That apart, the cases of the respondent employees were considered by the Government itself and they were brought under the regular establishment in the sanctioned post in the time scale of pay. They served for many years and retired from services on attaining their respective age of superannuation. This being the factum, the Award is perverse and it not in consonance with the principles to be adopted. In view of the fact that the Labour Court has erroneously assumed their jurisdiction, the Award is to be construed as infirm.

6.It is brought to the notice of this Court that all the respondent employees have already reached the age of superannuation and retired from services. Thus, if at all any excess payment has been paid to these employees who were working in Class IV services, no recovery is to be made in respect of the respondent employees. It is made clear that excess payment if any already paid shall not be recovered from the pension of the respondent employees.

7.The learned counsel for the petitioners made a submission that pursuant to the interim order passed in this writ petition, the Department had deposited 25% of the Award amount. Thus, they are permitted to withdraw the



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S.M.SUBRAMANIAM, J.

SSR

said amount from the Labour Court by filing an appropriate application before the Court concerned.

8.Accordingly, the impugned Award passed by the Labour Court in ID.Nos.123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135 & 136/09 dated 03.09.2013 are quashed and the writ petitions are allowed. No Costs. Consequently, connected miscellaneous petitions are closed.

10.10.2022

Index:Yes
Internet:Yes
Speaking order
SSR

To

The Presiding Officer,
Labour Court,
Salem.

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