



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Thursday, the Nineteenth day of May Two Thousand Twenty Two

PRESENT

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.M.P.Nos.11584 & 10723 of 2022

in W.P.No.11128 of 2022

TAMIL NADU WATER SUPPLY AND [PETITIONER in WMP.11584/2022
DRAINAGE BOARD, and RESPONDENT in WMP.10723/2022]
REPRESENTED BY ITS MANAGING DIRECTOR,
31, KAMARAJAR SALAI,
CHEPAUK, CHENNAI 600 005.

Vs

CENTRAL ORGANIZATION OF TWAD [RESPONDENT in WMP.11584/2022
BOARD EMPLOYEES, and PETITIONER in WMP.10723/2022]
REPRESENTED BY ITS GENERAL SECRETARY,
NO.27, MASOOTH STREET,
CHEPAUK, CHENNAI 600 005

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to Vacate the Order dated 28.04.2022 made in W.M.P.No.10718, 10721 and 10728 of 2022 in W.P.No.11128 of 2022(W.M.P.No.11584/2022)and;

(2)To grant an interim stay, staying the operation of the order dated 29.03.2022 passed by the Respondent in B.P.Ms.No.11, Operation and Maintenance Wing, in so far as reducing the existing Schedule Rate of wages and adopting and directing to pay only the minimum wages fixed and notified in G.O.(2D) No.62, Labour and Employment(J1) Department, dated 11.10.2017(WMP.10723/2022)pending disposal of the W.P.No.11128 of 2022.

Order : These petitions coming on this day for hearing upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.S.SHAHILA BHANU, Advocate for PETITIONER in WMP.11584/2022 and RESPONDENT in WMP.10723/2022 and of M/S.N.G.R.PRASAD, Advocate for M/S.V.AJOY KHOSE, Advocate for RESPONDENT in WMP.11584/2022 and PETITIONER in WMP.10723/2022, the court made the following order:-



The Vacate Stay petition has been filed to vacate the order dated 28.04.2022 made in WMP.Nos.10718, 10721 and 10723 in WP.No.11128 of 2022.

WEB COPY

2. The respondent in the vacate stay petition is the writ petitioner, who instituted the writ petition to call for the records pertaining to the order passed by the Respondent in B.P.M.S.No.11, Tamil Nadu Water Supply and Drainage Board, Operation and Maintenance Wing, dated 29.03.2022, quash the same in so far as reducing the Schedule Rate of wages to minimum wages which are notified in G.O.(2D) No.62, Labour and Employment (J1) Department, dated 11.10.2017 for the employees who are employed by them through outsourcing from the financial year 2022-2023 and consequently, direct the Respondent and its officials to continue to pay the scheduled rate of wages already fixed by the Board and continue to pay the scheduled rate of wages by revising and notifying the scheduled rate of wages for every financial year from 01.04.2022 by following the same procedure and formula for fixation of the scheduled rate of wages as followed and fixed in the previous financial years in the same manner, award costs.

3. The learned counsel appearing on behalf of the vacate stay petitioner / respondent in the writ petition mainly contended that they are restrained from floating tender for the purpose of carrying out the essential works in the TWAD Board. In the event of continuance of stay, the Board activities would be prejudiced and they may not be in a position to do public services to the general public. The interim stay for floating tender would further cause prejudice to the financial position of the Board and therefore, the vacate stay petitioner may be permitted to proceed with the tender and conclude the same in the interest of public.

4. The writ petitioner / respondent in the vacate stay petition mainly contended that the Board is attempting to reduce the wages already being paid to the workmen, who all are engaged through the contractors. In the event of reduction of wages, their livelihood would be affected. The wages are paid pursuant to the Board orders and therefore, the wages already being paid, is to be protected in respect of the labourers, who all are working through the respective contractors engaged by the Board through the terms and conditions of agreement.

5. This Court is of the considered opinion that, no doubt, the wages being received by these workmen are to be protected. Equally, the Board need not be restrained from floating tenders in the interest of public, more specifically, when in the absence of such contractors, the Board will not be in a position to maintain the water projects and to do services to the public at large. Thus, the public interest involved is also to be considered by the Courts in such circumstances, so also, the interest of the workmen is also to be taken into consideration.



6. The learned counsel appearing on behalf of the TWAD Board reiterated that the Board has taken a decision to fix the minimum wages as applicable and accordingly, the wages are to be paid by the contractors. However, the workmen are not the direct labourers of the Board and they are being engaged through the contractors and the contractors have to pay the wages to these workmen. Thus, these issues are to be sorted out only on engaging a contractor after finalisation of tenders process.

7. The reduction of salary cannot be done in a routine manner. The wages being paid to these workmen are to be protected as the Board is the 'State' and therefore, they are also duty bound to ensure that the wages being paid to be protected in all respects in accordance with the Board proceedings.

8. This being the factum, the vacate stay petitioner / TWAD Board is permitted to proceed with the tender notification, complete the process in the interest of the Board activities, more specifically, for the maintenance of water resources and projects and in the interest of public.

9. As far as the respondent/Labour Union is concerned, the wages already paid as per the Board proceedings are to be protected and in the event of any such dispute, it is to be resolved through negotiation between the parties.

10. With these directions, the interim stay for floating tender granted in order dated 28.04.2022 in WMP.No.10723 of 2022 in WP.No.11128 of 2022 stands vacated. However, the wages already paid to the labourers as per the Board Proceedings are to be protected. Accordingly, the stay petition and vacate stay petition in W.M.P.Nos.10723 & 11584 of 2022 in W.P.No.11128 of 2022 stand disposed of.

-sd/-
19/05/2022

/ TRUE COPY /

Sub Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE MANAGING DIRECTOR,
TAMIL NADU WATER SUPPLY AND
DRAINAGE BOARD,
31, KAMARAJAR SALAI,
CHEPAUK, CHENNAI 600 005.



2 THE GENERAL SECRETARY,
CENTRAL ORGANIZATION OF TWAD
BOARD EMPLOYEES,
NO.27, MASOOTH STREET,
CHEPAUK, CHENNAI 600 005

WEB

Order
in
W.M.P.Nos.11584 & 10723 of 2022

in W.P.No.11128 of 2022

Date :19/05/2022

From 26.2.2001 the Registry is issuing certified
copies of the Interim Orders in this format
GS(20/05/2022)