



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2022

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.2241 of 2017

The President
Vanamadevi Panchayath Office,
Vanamadevi Office,
Cuddalore Taluk

...Petitioner

-Vs-

1. C.Selvam
2. The Presiding Officer,
Labour Court,
Cuddalore.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records in connection with the order dated 20.09.2016 made in I.D.No.18 of 2016 on the file of the Labour Court, Cuddalore, the 2nd respondent herein and quash the same and pass orders.

For Petitioner	:	Mrs.A.Sri Jayanthi
For Respondents	:	Mr.B.Balachander for Mr.Ashok Menon for R1 Labour Court - R2

ORDER

The 1st respondent herein had joined the petitioner/Panchayat as Over Head Tank Opeartor on 10.07.2006. After serving for about 9 years, the petitioner/Panchayat sent a notice to the 1st respondent, calling for explanation in connection with a complaint received from the public, regarding the operation of Over Head Tank Motor, to which, the 1st respondent herein did not reply. Subsequently, on 27.06.2015, the petitioner had passed a resolution to terminate the 1st respondent from his service and accordingly, he was terminated



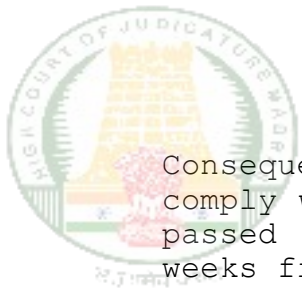
on 27.06.2015. In the Industrial Dispute raised by the 1st respondent herein before the Labour Court, the petitioner/Panchayat was set ex-parte. The Labour Court, through its award dated 20.09.2016, had held that the petitioner had not followed the procedure contemplated for terminating the services of the 1st respondent and thereby directed for re-instatement together with continuity of service, back wages and other attendant benefits. The award is put under challenge in the present Writ Petition.

2.The learned counsel appearing for the petitioner submitted that the 1st respondent is a contingent employee on daily wages and since he was not a permanent workman, they had terminated his service by passing a resolution by the Council.

3.On the other hand, the learned counsel appearing for the 1st respondent submitted that the termination itself is bad in law, since the procedure under law was not followed for such a termination and moreover, the petitioner herein had not chosen to appear before the Labour Court when the award was passed.

4.The definition of a workman under Section 2(s) of the Industrial Disputes Act as well as the Tamil Nadu Industrial Establishments (Conferment of Permanent Status To Workmen) Act, 1981, includes both 'permanent workman' as well as a 'temporary workman'. Likewise, the procedure for retrenching a workman is provided under Section 25F of the Industrial Disputes Act. While that being so, the claim of the management that since the 1st respondent herein is a contingent workmen, termination without enquiry, cannot be substantiated. Section 25F of the Industrial Disputes Act provides for conditions precedent to retrenchment of any workman. While that being so, a termination simplicitor, based on the resolution of the petitioner's Council, is not a proper procedure for termination, particularly without enquiry to substantiate the complaint lodged by the public.

5.Above all, if at all the petitioner intends to substantiate that the 1st respondent can be terminated without any enquiry, the same could be established before the Labour Court. Since the petitioner failed to appear before the Labour Court when the award was passed, it would not be open to the petitioner to raise all these grounds before this Court. They have also failed to take steps to set aside the exparte Award. The scope of interference to an award passed by the Labour Court under Article 226 of Constitution of India is also very limited. It has been consistently held that this Court, while analysing the award of the Labour Court, will not re-appreciate the evidence and will only interfere on very limited grounds. In the result, I do not find any merits in the present Writ Petition and accordingly, this Writ Petition stands dismissed.



Consequently, the petitioner Panchayat is directed to forthwith comply with the award dated 20.09.2016 made in I.D.No.18 of 2016 passed by the Labour Court, Cuddalore, within a period of two weeks from the date of receipt of a copy of this order. No costs.

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Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

vkr

To

The Presiding Officer,
Labour Court,
Cuddalore.

+1cc to M/s.A.Sri Jayanthi, Advocate, S.R.No.4982

+2ccs to M/s.Ashok Menon, Advocate, S.R.No.4814

W.P.No.2241 of 2017

KSM(CO)
SU(10/02/2022)