



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.03.2022

CORAM:

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**

W.P. (MD)No.19220 of 2021

and

W.M.P (MD)Nos.15944 and 15946 of 2021

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The Superintending Engineer,
Madurai Electricity Distribution Circle,
Tamil Nadu Generation and Distribution
Corporation Limited(TANGEDCO),
K.Pudur,Madurai - 625 007.

... Petitioner

Vs.

1.K.Chandran

2.V.Guruswamy

3.B.Baskaran

4.S.Pandiyaraj

...Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records of the Presiding Officer,Labour Court, Madurai in C.P 04 of 2013 and quash its order dated 09.04.2015.

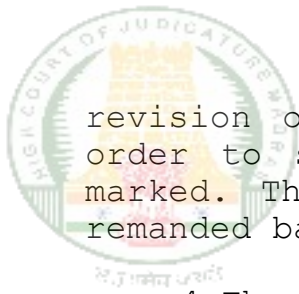
For Petitioner : Mr.T.S.Gopalan
for M/s. T.S.Gopalan and Co.,
For Respondents : Mr.R.Thangasamy

ORDER

The award of the Labour Court, Madurai passed in C.P.No.04 of 2013, dated 09.04.2015 is sought to be quashed in the present writ petition.

2.The learned counsel for the petitioner mainly contended that the commutation petition was allowed by the Labour Court, without based on any document. Even list of documents furnished by the petitioner before the Labour Court reveals that there is no document to establish the monetary calculation done by the Labour Court.

3.The learned counsel for the petitioner drew the attention of this Court with reference to the petitioner's side document which reveals that the order of the Inspector of Labour, dated 08.04.2005, the order passed by the High Court in W.P.(MD)No.8443 of 2005, dated 11.09.2007 and the petition sent by the petitioners to the respondent on 03.01.2013 and the order of TANGEDCO regarding the



revision of salary, dated 16.10.2005 are marked as documents. In order to substantiate the claim of the workmen, no document was marked. Thus, the petitioner states that the case deserves to be remanded back for reconsideration.

4.The learned counsel for the respondents/workmen vehemently opposed by stating that four workmen are suffering for long years and their plight are not redressed even if continues to be a litigation. Their salary has already been admitted by the TANGEDCO Management. The present writ petition has been filed after a lapse of 6 ½ years from the date of passing of the award.

5.The learned counsel for the respondents/workmen made a submission that the writ petition is liable to be rejected on the ground of laches. The petitioner is not vigilant enough to pursue the matter and therefore, they are not entitled for any relief.

6.Considering the arguments, this Court is of the considered opinion that no doubt there is a long delay of 6 ½ years in filing the writ petition. The petitioner TANGEDCO has committed a lapse in pursuing the matter properly. However, it is contended on behalf of the petitioner that a huge sum of public money is involved in the commutation petition as Rs.18 lakhs has been awarded for one workmen and therefore, public money is to be protected and only after complete adjudication, the respondents/workmen would be entitled to get the entire arrears.

7.Unjust enrichment of public money can never be permitted. However, in the present writ petition, the right of workmen is to be protected. Whether it is unjust enrichment or right conferred is to be properly decided by the Courts. The adjudication in the eye of law must be in existence for the purpose of forming an opinion by the Court, in respect of the calculation of commutation by the Labour Court. Thus, in the absence of any adjudication with reference to the documents, the Courts must ensure that the public money is disbursed only after proper and complete adjudication.

8.In respect of the delay in filing the writ petition, the workmen is to be compensated. When public money has been involved and if there is a loss caused to the State Exchequer, then the Courts are to be little cautious in dealing with the issues.

9.The learned counsel for the petitioner made a submission that the petitioner ought to have considered the case of the writ petitioner for reinstatement, for which, the respondents, workmen are ready and willing. However, such request made on behalf of the workmen may be considered by the competent authorities, as the workmen are even now willing to work with the TANGEDCO, but the Court cannot take a decision on this issue.

<https://hcservices.courts.gov.in/feservices> the award of the Labour Court is concerned, this



Court is satisfied that a complete adjudication with reference to the document is lacking. The learned counsel for the petitioner drew the attention of this Court with reference to the proceedings of the TANGEDCO regarding revision of salary dated 16.10.2005, however, the said order is disputed by the respondents by stating that the claim petition pertains to the year 2002. However, this Court is of the considered opinion that the matter is to be remanded back for fresh consideration by providing an opportunity to all the parties to submit additional document or otherwise, for the purpose of establishing their respective cases.

11.As far as the delay in filing the writ petition is concerned, it is the lapse/negligence and dereliction of duty on the part of the writ petitioner Management, the writ petitioner TANGEDCO administration is directed to initiate appropriate disciplinary actions against the officials, who all are responsible for such a delay in pursuing the matter.

12.Considering the longevity of the litigation and the plight of the workmen, this Court is inclined to impose a cost of Rs.1,00,000/-(Rupees One Laksh)each payable to the workman to be paid by the writ petitioner TANGEDCO within a period of one week from the date of receipt of a copy of this order. It is made clear that the cost of Rs.4,00,000/-to be paid to the four workman must be recovered from the officials, who all are responsible for the negligence and dereliction of duty in pursuing the issues properly before the Court of Law. The public money cannot be wasted on account of lapse on the part of the authorities. Therefore, the entire amount of Rs.4 lakhs is to be recovered by the competent authority in accordance with law. Accordingly, the award passed by the Labour Court in C.P.No.04 of 2013 dated 09.04.2015 is quashed and the matter is remanded back to the Labour Court, Madurai for fresh consideration, on payment of cost to each of the four workman. The Labour Court, Madurai is directed to proceed with the adjudication by providing an opportunity to the parties to the lis and conclude the same and pass final orders within a period of two months from the date of receipt of a copy of this order. The parties are directed to co-operate for the early disposal and the Labour Court, Madurai, shall not grant unnecessary adjournments on flimsy grounds. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

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Sub Assistant Registrar(CS)

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<https://hcservices.ecourts.gov.in/hcservices/>



To

The Presiding Officer,
Labour Court,
Madurai.

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+1 CC to M/s.T.S.GOPALAN & CO, Advocate (SR-14415[F] dated
25/03/2022)

+4 CC to M/s.R.THANGASAMY, Advocate (SR-14193[F] dated 24/03/2022)

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