



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.03.2022

CORAM

THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P. (MD)No.3598 of 2014

and

M.P. (MD)No.2 of 2014

WEB COPY

1.The Superintendant Engineer,
TWAD Board, Dindigul,
Theni, Madurai District,
Madurai.

2.The Managing Director,
TWAD Board,
Chepauk, Chennai.

... Petitioners

vs.

1.The Presiding Officer,
Labour Court,
Tiruchirapalli.

2.A.Rahamadullah

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records pertaining to the impugned order bearing C.P.No.10 of 1995, dated 28.09.2012, passed by the 1st respondent and to quash the same.

For Petitioners : Mr.B.Vijayakarthiskeyan

For R1 : Labour Court

For R2 : Mr.Sarvagan Prabhu

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorari, to call for the records pertaining to the impugned order bearing C.P.No.10 of 1995, dated 28.09.2012, passed by the 1st respondent and to quash the same.

2.The petitioners herein engages Contractors for the purpose of operation and management of combined water scheme. The contractors will employ labourers to execute such work. The second respondent was appointed on daily wages basis by the TWAD Board and



he was engaged for assisting in conducting Geophysical works executed by the TWAD Board and he was paid nominal wages under nominal muster Roll. On completion of the entire scheme the service of 3 Helpers have become surplus and therefore, they were terminated in order to accommodate regular employers.

3.The contention of the second respondent is that he had served in the TWAD Board from 11.07.1984 to 06.10.1989 continuously, which was denied by the TWAD Board. Thereafter, a group of workers filed a Petition to confirm permanent status before the Conciliation Officer which ended in failure. Thereafter, the Government referred the case for Industrial Dispute, which was taken on file as I.D.No.30/91. When the I.D. was pending, the first respondent has passed an order on 28.09.2012, directing the petitioners to reinstate the second respondent with continuity of service and backwages. Aggrieved over the same, the TWAD Board has preferred this Writ Petition.

4.The contention of the TWAD Board is that the second respondent has not completed 480 days and he has completed only 363 days. The second respondent was engaged under a Scheme in TWAD Board to execute combined water scheme in Dindigul District. To execute the said scheme, Geophysical survey works were carried out. The second respondent was engaged to assist the surveyor. Since it is only scheme work and the second respondent has not completed the 480 days, he is not entitled to the conferment of permanent status.

5.The TWAD Board further contended that there are two types of temporary workers in the TWAD Board. Type A would be recruited through proper employment exchange against the sanctioned post. Type B employees would be engaged for any miscellaneous work which may arise under any scheme and for temporary need without any sanctioned post. The second respondent was engaged under Type B category and therefore, the second respondent is not entitled to seek permanency.

6.The learned Counsel appearing for the second respondent submitted that the second respondent has completed 480 days and he was working from 1984 onwards. The second respondent was taken into service in the TWAD Board only. While engaging the second respondent, the TWAD Board directed to carry on the work in the scheme and there are more than 60 persons, who had worked in the TWAD Board and had preferred I.D. In I.D.No.30 of 1991. When the said case was taken up for trial, the second respondent has not attended the trial. Therefore, he was not confirmed in the said list of 60 persons. The second respondent's name was in Serial No.57. Therefore, the second respondent was constrained to raise



the separate I.D. No77 of 1995 and the same was awarded. In this present case, the petitioner has filed a C.P. to implement the award. The learned Counsel appearing for the second respondent also submitted that since similarly placed persons were granted conferment and they are working there for more than 10 years, the second respondent alone was singled out and he could not get conferment and prayed to dismiss the writ petition.

7.Heard Mr.B.Vijayakarthyayan, learned Counsel appearing for the petitioners and Mr.Sarvagan Prabhu, learned Counsel appearing for the second respondent.

8.On perusal of the affidavit and the typed set of papers and on the basis of the submissions of the learned Counsels appearing for both sides, this Court is of the considered opinion that since the similarly placed persons were already granted and they are all working for more than 10 years, the second respondent is also entitled to a job in the petitioner's Board. However, the other similarly placed persons are working in the Board for more than 10 years.

9. The second respondent is entitled to service in the TWAD Board. The second respondent has attained 55 years of age and has only 3 more years left out for superannuation. Therefore, in order to meet the ends of justice, this Court is directing the petitioner TWAD Board to take the second respondent into service as a fresh entrant within a period of four weeks from the date of receipt of a copy of this order and second respondent is not entitled to any back wages or continuity of service.

10.With this direction, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Tmg

Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.



To

- 1.The Presiding Officer,
Labour Court,
Tiruchirapalli.
- 2.The Superintendant Engineer,
TWAD Board, Dindigul,
Theni, Madurai District,
Madurai.
- 3.The Managing Director,
TWAD Board,
Chepauk, Chennai.

+1 CC to M/s.B.VIJAY KARTHIKEYAN, Advocate (SR-11263[F] dated
10/03/2022)

+1 CC to M/s.S.SARVAGAN PRABHU, Advocate (SR-11644[F] dated
11/03/2022)

W.P. (MD) No. 3598 of 2014
10.03.2022

MGJ(31.03.2022) 4P 6C