

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.09.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.3604 of 2015

and

M.P.(MD).No.1 of 2015

The President,
Mathavalayam Village Panchayat,
Thovalai Panchayat Union,
Mathavalayam 629 302.
Kanyakumari District.

... Petitioner

Vs.

1.P.Shanmuga Velayutham Pillai

2.The Presiding Officer,
Labour Court,
Tirunelveli.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the impugned award of the second respondent dated 08.12.2014 made in I.D.No.63 of 2013 on the file of Labour Court, Tirunelveli, quash the same.

For Petitioner : Mr.Y.Sasikumar,
for Mr.C.Christopher.

For R-1 : Mr.G.Ramanathan

For R-2 : Labour Court

ORDER

This Writ Petition has been filed by the President of Village Panchayat to quash the impugned award passed in I.D.No.63 of 2013 dated 08.12.2014.

2. The brief facts as stated in the affidavit are that the first respondent was temporarily appointed as Assistant in the petitioner's Panchayat on consolidated pay of Rs.600/- per month by the erstwhile Panchayat President by way of resolution dated 30.10.2009. On and from 25.10.2011, the petitioner was elected as President in the petitioner's Panchayat and functioning as such to the satisfaction of the entire Village public. When the petitioner had assumed office, he found several irregularities in the Panchayat. Therefore, the petitioner has initiated certain action against the first respondent. The President received repeated complaints regarding irregular supply of water and the first respondent has not attended the office regularly. Therefore, an enquiry was conducted and charges were framed against the first respondent on 30.05.2012. The first respondent did not submit proper reply and left the enquiry in the midst of the enquiry and also abused the President and other people in the public. In June 2012, the first respondent made advance entry for five days in the attendance

register. Thereafter, the Show Cause Notice dated 24.08.2012 was issued for the above said charges. But the first respondent gave improper and evasive reply.

3. The contention of the petitioner is that the first respondent called the President over phone in the mid night under the influence of alcohol and abused the petitioner with unparliamentary words. Therefore, the petitioner was forced to give Police complaint through her husband. The first respondent absented himself from duty continuously, thereby, affected the supply of drinking water to the public. After conducting enquiry, a resolution was passed by the Panchayat to remove the first respondent from his temporary service on 07.09.2012. In such circumstances, the first respondent raised Industrial Dispute in I.D.No.63 of 2013. The first respondent in the examination and cross examination before the Labour Court has categorically admitted that he was aware of the resolution dated 17.09.2012 removing him from temporary service. In such circumstances, the plea of the petitioner President is that the first respondent ought to have filed an appeal challenging the resolution dated 17.09.2012. Since he is having an efficacious alternative remedy, the industrial dispute is not maintainable. Therefore, aggrieved over the order passed by the Labour Court, the President has come forward by filing this Writ Petition.

4. The first respondent relied on the contents of the petition filed before the Labour Court. The learned counsel for the first respondent submitted that the first respondent was working in the Panchayat based on the resolution passed by the elected body and was working for the past three years. The new President after taking charge foisted false complaints against the first respondent and also against other persons. The petitioner President also interfered with the first respondent's work through her husband. From 15.09.2002, the petitioner did not allow the first respondent to sign the attendance register. The District Collector vide letter dated 07.01.2013, directed the petitioner president to allow the first respondent to discharge his duties. Even then the petitioner president did not allow the first respondent to do discharge his duties. Aggrieved over the same, the first respondent preferred I.D.No.63 of 2013 before the Labour Court. After hearing the rival contentions, the Labour Court has held that the first respondent is entitled in continuity of service as well as the consolidated pay of Rs.600/- or consolidated pay of last drawn salary. Aggrieved over this order, the petitioner President has filed this Writ Petition and prayed to dismiss the writ petition.

5. Heard Mr.Y.Sasikumar for Mr.C.Christopher, the learned counsel appearing for the petitioner and Mr.G.Ramanathan, appearing for the 1st respondent and perused the records.

6. When the matter was taken up for hearing, the learned counsel appearing for the first respondent submitted that the first respondent has already attained the age of superannuation. In such circumstances, the order passed by the Labour Court granting reinstatement cannot be implemented. Therefore, the only option left is to pay compensation to the first respondent. The contention of the first respondent is that after the new President had taken over the office of the Presidentship, the President did not allow the first respondent to discharge his duties because the President wants to appoint somebody of his choice in that place, who would be his own person. The President also interfered with the first respondent's work through her husband. There are several allegations against each other, the same cannot be gone into under Article 226 of the Constitution of India. However, the District Collector has already directed the petitioner President vide communication dated 07.01.2013 to allow the first respondent to discharge his duties and inspite of such direction, the petitioner had not allowed the first respondent to continue his duties. In such circumstances the first respondent is entitled to relief.

7. The first respondent had attained superannuation and therefore, this Court is modifying the order to the extent that petitioner's President shall pay the amount of Rs.3,00,000/- (Rupees Three Lakhs only) as full and final settlement to the first respondent. It is submitted that the amount to the tune of Rs.17,400 (Rupees Seventeen Thousand and Four Hundred only) was already paid to the first respondent. Therefore, this Court directs the petitioner President to pay the balance amount to the tune of Rs.2,82,600/- (Rupees Two Lakhs Eighty Two Thousand and Six Hundred only) within a period of twelve (12) weeks from the date of receipt of a copy of this order.

8. With the above modification, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

28.09.2022

Index : Yes / No
Internet : Yes/ No
Nsr

To

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