



W.P.No.20997 of 2004

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

W.P.No.20997 of 2004

and

W.M.P.No.25276 of 2004

The Commissioner,
Bhavani Municipality,
Bhavani
Erode District.

... Petitioner

..Vs..

1. The Presiding Officer,
Labour Court, Salem.

2. Thanagamani

.. Respondents

Prayer:- Writ Petition is filed, under the Article 226 of Constitution of India, to issue a Writ of Certiorari, to call for the records of the 1st respondent in his order I.D.No.223/97 dated 24.04.2003 quash the same.

For Petitioner : Mr.P.S.Jayakumar

For R1 : Court

For R2 : Mr.K.V.Shanmuganathan



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ORDER

This Writ Petition has been filed praying to call for the records of the 1st respondent in his order I.D.No.223/97 dated 24.04.2003 to quash the same.

2. The Bhavani-Municipality is challenging the award passed by the Labour Court, whereby the second respondent herein was directed to be re-instated with continuity of service and back wages.

3. As the writ petitioner / Municipality is in short of hands to handle the garbages for the lorry, they requested the District Employment office to sanction the list. Pursuant thereto, on 30.11.1990, 8 persons have been recommended by the District Employment Office, out of which, the 8th selected candidate namely Thangamani-second respondent was appointed on 30.11.1990 as Sanitary Worker and was ousted from service 12.05.1994 and hence he moved the Labour Court under Section 2a(2) of the Industrial Disputes Act. Before the Labour Court, Salem, the labourer has examined himself as P.W.1 and Exs.P1 and P2 were examined.



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4. Based upon the oral documentary evidence, the Labour Court has rendered a finding that the second respondent-labourer has rendered service only as a temporary employee on daily basis from 30.11.1990 and he was paid Rs.40 from 12.05.1994 and he was not given employment as per the procedures contemplated under Section 25-F of the Industrial Disputes Act, which is not complied with by the petitioner-Municipality. Accordingly, re-instatement with continuity of service and back wages was ordered by the Labour Court within a period of two months. This Writ Petition has been filed by the Municipality challenging the award dated 24.04.2003.

5. After going through the evidence and also taking note of the fact that the second respondent, according to the petitioner has not continuously worked for 4-1/2 years, however, the learned counsel appearing for the second respondent contended that R2 is worked continuously for a period of 4-1/2 years. Admittedly, no relevant documents have been filed before the Labour Court. However, I find that since the second respondent is working for more than 240 days, and he is entitled for necessary benefits.



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6. Taking into consideration the entirety of facts and circumstances and also as to that the second respondent herein (labourer) was employed during the period 2001 to 2023, namely for 20 years, in the interest of justice, the following order is passed:-

Based on the impugned order of re-instatement with back wages as awarded by the Labour Court, a lumpsum on payment of Rs.6 lakhs shall be paid to the second respondent-labourer within a period of eight weeks from today, failing which, the second respondent shall file the Execution Petition before the Labour Court concerned for executing the award.

7. Writ Petition is disposed of in the above terms. No costs. Consequently, connected W.M.P is closed.

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Index:Yes/No

Neutral Citation : Yes/No

To

The Presiding Officer,
Labour Court, Salem.

RMT.TEEKAA RAMAN,J.,



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