



WEB COPY



W.P.No.4877 of 2005

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2023

CORAM

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.4877 of 2005
and W.P.M.P.5398 of 2005

1. Rajasekaran (Deceased)
 2. R.Kothainayagi
 3. R.Thangaraj
 4. R.Komaladevi
 5. R.Rajendran
 6. R.Rajkumar
 7. R.Moovendhan
 8. R.Nagappan
 9. Susilammal
- (P2 to P9 substituted as
LRs of the deceased Sole
Petitioner vide order
dated 12.07.2021
made in W.M.P.No.632 of 2020
in W.P.No.4877 of 2005)

... Petitioners

-Vs-

1. The Management of
M/s Southern Switchgear Ltd.,
Industrial Estate, Ambattur,
Chennai-600058.
2. The Presiding Officer,
Principal Labour Court, Chennai.

... Respondents



W.P.No.4877 of 2005

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus, calling for records relating to the I.D.No.544 of 1997 on the file of the second respondent and to quash the award dated 30.04.2004 and direct the respondent management company to pay the petitioner all the retiral and pensionary benefits in accordance with law from the date of his illegal termination till the date of his attaining the age of superannuation.

For Petitioners : Mr.K.V.Dhanapalan

For R1 : No appearance
R2 : Court

ORDER

This writ petition has been filed as against the Award passed by the second respondent in I.D.No.544 of 1997 dated 30.04.2004, thereby denied the relief sought for by the petitioner in claim petition, thereby claiming reinstatement into service with backwages and continuity of service.

2. Heard the learned counsel for the petitioner and perused the materials available on record. There is no representation on behalf of the first respondent.



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3. The petitioner had entered into service with the first respondent on 01.07.1966 as Fitter in Mechanic Shop Section. While being so, on 05.08.1995, the first respondent had sent a letter to the Regional Provident Fund Commissioner, Madras, asking to furnish the information as to the date of birth of the petitioner. Thereafter, the petitioner was informed that he is to be retired from service on 31.07.1996. It was decided by the first respondent on the basis of the information that the date of birth of the petitioner is registered as 15.07.1938 in the group insurance scheme. Therefore, the petitioner was compulsorily retired on 15.07.1996. According to the petitioner, as per the date of birth, he will be attaining the age of superannuation only on 01.07.2001. Therefore, he prayed to allow him to continue in service till 01.07.2001, as the compulsory retirement would amount to retrenchment of his service. However, the Labour Court rejected the claim of the petitioner, on the ground that the petitioner failed to prove his date of birth as 15.07.1943. Now, the first respondent had already wound up. The workman was not paid any terminal benefits which was entitled to him.

4. During the pendency of this writ petition, the workman died and



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the legal representatives were substituted as petitioners.

5. The learned counsel for the petitioners would submit that without questioning the Award passed by the labour Court, the petitioners may be disbursed with all the terminal benefits of the deceased workman.

6. The learned counsel for the first respondent would submit that now the Company itself has wound up and as such, they are no longer counsel for the first respondent. However, the first respondent has to disburse all the terminal benefits to the petitioners. Therefore, as directed by this Court, the petitioners had taken notice to the first respondent and it was returned as “No such Company”.

7. Accordingly, the first respondent is directed to disburse all the terminal benefits of the deceased workman to the petitioners, within a period of twelve weeks from the date of receipt of a copy of this order, if not already paid. The petitioners are at liberty to recover the terminal benefits from the first respondent in accordance with law.



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8. With the above directions, this Writ petition is disposed of.

Consequently, connected Miscellaneous petition is closed. No costs.

12.09.2023

Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order

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G.K.ILANTHIRAIYAN, J.

mn

To

1. The Management of
M/s Southern Switchgear Ltd.,
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Chennai-600058.
2. The Presiding Officer,
Principal Labour Court, Chennai.

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