



W.P.No.17447 of 2016

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 01.08.2023**

**CORAM**

**THE HONOURABLE MR.JUSTICE M.DHANDAPANI**

**W.P.No.17447 of 2016**

**and**

**W.M.P.No.14915 of 2016 and W.M.P.No.4854 of 2017**

Tamil Nadu Grama Bank  
Represented by its Chairman,  
Head Office, No.6, Yercaud Road,  
Hasthampatti,  
Salem - 636 007.

... Petitioner

**Vs.**

1.S.Saravanan

2.The Central Government Industrial Tribunal  
cum Labour Court,  
I Floor, 'B' Wing, No.26,  
Haddows Road,  
Chennai - 600 006.

... Respondents

(Cause title amended as per the order made in  
W.M.P.No.25450 of 2019 in W.P.No.17447 of  
2016 by SVNJ on 30.08.2019)



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**PRAYER :** Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records in I.D.No.46 of 2011 culminating in the award dated 13.12.2013 on the file of the second respondent and quash the same.

For Petitioner : Mr.M.Sridhar  
for M/s.L.Jayakumar and Associates

For Respondents : Mr.Balan Haridas for R1  
R2 - Labour Court

## **ORDER**

This Writ Petition has been filed seeking to quash the proceedings of the second respondent in I.D.No.46 of 2011 culminating in the award dated 13.12.2013.

2. The case of the petitioner is that the first respondent was engaged as casual labourer on daily wage basis that too intermittently. The petitioner Bank took a sympathetic view on the economic conditions of the first respondent and issued the order of provisional selection inadvertently



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and without any authority, the first respondent had failed to follow the statutory and mandatory procedures of the petitioner Bank. Therefore, the letter conveying the provisional selection of the first respondent was later withdrawn. However, the first respondent had been offered the casual employment intermittently, even though the first respondent refused to accept it and did not turn up for being engaged, thereby voluntarily ceased from casual employment. Pursuant to the same, the first respondent raised a Industrial Dispute before the second respondent / Labour Court against the alleged termination from service. Before the Labour Court, it was contended by the learned counsel for the petitioner Bank that the provisional selection made by the Chairman inadvertently and without any authority, hence the withdrawal of the provisional selection and its communication is neither arbitrary nor illegal. The learned counsel for the petitioner Bank further submitted that since the provisional selection is without any authority, there is no question of termination of service of the first respondent. it is also contended that the first respondent never worked for more than 480 days in a two calendar year as alleged in his petition and there is no unfair labour



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practice followed by the petitioner Bank. Before the Labour Court, Exs.W1 to W11 were marked by the first respondent and Exs.M1 and M2 were marked by the petitioner Bank. The Labour Court after considering the materials placed before it and the evidence adduced by both the parties came to the conclusion that the petitioner Bank was not all justified in terminating the service of the first respondent and that he was terminated orally which is in violation of principles of natural justice. Thereby, the Labour Court passed an award dated 13.12.2013 directing the petitioner Bank to reinstate the first respondent in service within a period of one month with 50% backwages from the date of termination, and continuity of service and other attendant benefits. Challenging the said award, the present Writ Petition has been filed.

3. The learned counsel for the petitioner Bank heavily relies upon the judgment of the Hon'ble Supreme Court in the case of ***State of Karnataka and others vs. Umadevi and others*** reported in ***2006 4 SCC 1***, wherein it is observed that "when a person enters a temporary employment



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or gets engagement as a contractual or casual worker and the engagement is not based on a proper selection as recognized by the relevant rules or procedure, he/she is aware of the consequences of the appointment being temporary, casual or contractual in nature. Such a person cannot invoke the theory of legitimate expectation of seeking a relief of being made permanent in the post. The Government had issued repeated directions and mandatory orders that no temporary or adhoc employment or engagement be given."

4. The learned counsel for the first respondent submitted that admittedly the first respondent was engaged as Sweeper-cum-Messenger on daily wages of the petitioner Bank from 1994 and he was absorbed as permanent employee in the year 2008. The grievance of the first respondent is that even though he has put in 15 years of service, without conducting any enquiry, his services were terminated. Aggrieved over the same, the first respondent raised a dispute before the Central Government Industrial Tribunal-cum-Labour Court, Chennai and an award was also passed in favour of the first respondent directing the petitioner Bank to reinstate the



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first respondent into services with 50% backwages, continuity of service and other attendant benefits. Submitting as above, the learned counsel prays for dismissal of the above Writ Petition.

5. The learned counsel for the petitioner Bank brought to the notice of this Court that by order dated 03.03.2016 in W.P.No.4102 of 2016, this Court had directed the petitioner Bank to implement the award dated 13.12.2013 within a period of four weeks from the date of receipt of a copy of that order. Since the said direction was not complied with, Cont.P.No.1583 of 2016 was filed, this Court had passed the following order on 23.06.2016:

*"(i) The writ petitioner - bank is directed to pay directly to the first respondent - workman 50% of the back wages as awarded by the Central Government Industrial Tribunal-cum-Labour Court in the impugned award, within a period of four weeks from the date of receipt of a copy of this order. Such payment shall be made by way of a demand draft drawn in favour of the first respondent - workman;*

*(ii) Considering the stand taken by the writ*



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*petitioner - bank before the Central Government Industrial Tribunal-cum-Labour Court, which is evident from the counter statement filed by the bank before the Tribunal, there will be a direction to the writ petitioner - bank to offer temporary employment to the first respondent - workman with the same monetary benefit as he was drawing prior to he being relieved from duty and this direction shall be complied with within a period of four weeks from the date of receipt of a copy of this order and ;*

*(iii) It is made clear that the above directions shall be complied with the writ petitioner - bank and those will be without prejudice to their rights and contentions in the present writ petition.*

6. Pursuant to the above order, the petitioner Bank has paid a sum of Rs.2,83,964/- being 50% of the backwages by demand draft along with its letter dated 27.07.202016. The petitioner Bank has also offered temporary employment to the first respondent as Sweeper-cum-Messenger at Head Office, Salem and the first respondent has also joined duty on 01.09.2016.



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7. This position is not controverted by the learned counsel for the first respondent. However, since the salary offered by the petitioner Bank was only hand to mouth in existence, the first respondent has filed W.M.P.No.4854 of 2017 to issue appropriate direction directing the respondent / writ petitioner Bank to pay salary to the petitioner on par with regular and permanent sub staff, which is pending consideration.

8. Considering the facts and circumstances of the case, the submissions made by the learned counsel appearing for both sides and the earlier orders passed by this Court in the Writ Petition and the Contempt Petition arising out of this Writ Petition, this Court is inclined to pass the following orders:

"(i) The award dated 13.12.2013 passed by the second respondent / Labour Court is modified to the effect that the first respondent is not entitled to backwages.

(ii) However, the direction issued by the Labour Court for reinstatement with continuity of service and other benefits is justified.



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(iii) Since the petitioner Bank has already reinstated the first respondent into service, that operation of the award shall stand intact."

9. With the above observations, this Writ Petition is disposed of.

No costs. Consequently, connected Miscellaneous Petitions are closed.

**01.08.2023**

NCC: Yes / No  
Index : Yes / No  
Speaking Order : Yes / No

vji

To  
The Central Government Industrial Tribunal  
cum Labour Court,  
I Floor, 'B' Wing, No.26,  
Haddows Road,  
Chennai - 600 006.

2. The Chairman,  
Tamil Nadu Grama Bank  
Head Office, No.6, Yercaud Road,  
Hasthampatti, Salem - 636 007.



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**M.DHANDAPANI, J.**

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