



W.P.No.28340 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.04.2023

CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU

W.P.No.28340 of 2013

and

M.P.No.1 of 2013

The President,
Chickkapoovathi Village,
Thottapoovathi Post,
Krishnagiri

.... Petitioner

vs

1. The Presiding Officer,
Labour Court, Salem.

2. K.Sudappan

3. The Commissioner,
Krishnagiri Panchayat Union,
Krishnagiri
(No relief sought against the 3rd respondent)

.... Respondents

Writ Petition filed under Article 226 of the constitution of India to issue a Writ of Certiorari to call for the records in Award dated 21.06.2012 made in I.D.No.90 of 2007 on the file of the Labour Court, Salem, the first respondent herein and quash the same.



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For Petitioner : Mr.V.Perumal
For Respondents : R.1 - Court
Mrs.Selvi George
For R.2
Mr.J.C.Durairaj
AGP

ORDER

This writ petition has been filed challenging the order passed by the first respondent/ Labour Court in I.D.No.90 of 2007, in which, the Labour Court directed the petitioner to reinstate the 2nd respondent into service and grant all monetary benefits.

2. The case of the petitioner is that the 2nd respondent herein was appointed as Pump Operator in the Chickkapoovathi Village Panchayat during the year 1978 by the Petitioner's Village Panchayat. Due to irregularity and also various complaints received from the villagers, the petitioner terminated the 2nd respondent from service on 30.12.1986. Subsequently, on the request of the 2nd respondent, the petitioner reinstated him. Thereafter also, the 2nd respondent was not working properly and the petitioner received various complaints as against the 2nd respondent. Hence, the petitioner terminated the 2nd respondent from service on 16.04.1988. Since the post of Pump Operation is essential, the petitioner's Panchayat appointed one handicapped person as Pump Operator and he is working properly from the date of his



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appointment. However, the 2nd respondent, after 18 years and 6 months from the date of his termination, approached the Labour Court praying for reinstatement and other benefits. Though the petitioner filed a detailed counter, the Labour Court, by order dated 21.06.2012, directed the petitioner to reinstate the 2nd respondent into service and to grant all other monetary benefits. Aggrieved over the same, the present writ petition is filed.

3. Heard the learned counsel for the petitioner and the learned counsel appearing for the 2nd respondent.

4. i) Learned counsel for the petitioner would submit that the 2nd respondent was appointed as Pump Operator in the Chickkapoovathi Village in the year 1978 and since there were various complaints as against him, termination order was passed on 16.04.1988. Previously, in the year 1986 i.e., on 30.12.1986, he was terminated from service based on the complaints received from the villagers and subsequently, he was reinstated. Even thereafter, he was not working properly. Again, the petitioner office received complaints from the villagers. Hence, the 2nd respondent was terminated from service on 16.04.1988. However, the 1st respondent/ labour Court did not consider the same and directed the petitioner to reinstate the 2nd respondent.

ii) Learned counsel would further submit that the first respondent have not considered that the 2nd respondent had approached the Tribunal ought



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after eighteen years and six months from the date of termination. The Labour Court ought not to have allowed such a huge delay in filing the petition. The petitioner, only after following all the procedure laid down in the Panchayat Act, passed the termination order as against the 2nd respondent and appointed an handicapped person in the place of the 2nd respondent. Hence, there is no vacancy in the petitioner's Panchayat to appoint the 2nd respondent. Therefore, the learned counsel would seek to set aside the order passed by the Labour Court.

5. Per contra, the learned counsel appearing for the 2nd respondent would submit that the 1st respondent/ Tribunal has passed the order only after carefully considering the submissions made and on perusal of the relevant materials. First of all, the termination order is illegal without any due notice to the 2nd respondent. There is no iota of truth in the allegation made against the 2nd respondent. Only based on oral complaints, the termination order was passed to favour some other person illegally. Though the 2nd respondent went in person and requested the petitioner to consider for reinstatement on various occasions, they did not consider his request. Even the Commissioner of the Krishnagiri Panchayat Commission ordered for reinstatement of the 2nd respondent stating that the termination is illegal and directed to disburse the salary due to him and file a report. But the petitioner did not comply with the



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order. Even the settlement before the Conciliation failed and hence, the 2nd respondent filed industrial dispute. There is no infirmity in the order passed by the Labour Court and therefore, prayed to dismiss the writ petition.

6. This Court considered the submissions made on either side and perused the materials available on record.

7. First of all, there is no documentary proof to show that there is dereliction of duty on the part of the 2nd respondent. Though the petitioner would state that several complaints have been received from the villagers as against the petitioner that he is not operating the water motor pump properly for the use of villagers and also he is not reporting to the panchayat if there is any repair in motor pump, the petitioner did not produce any document to prove the same. On the contrary, it is the contention of the 2nd respondent that he was termination from service in order to appoint some other person in his place illegally.

8. Further, under Section 10 of the Industrial Disputes Act, if any industrial dispute exists or is apprehended, the appropriate Government 'at any time' refer the dispute to a Board or Court for enquiry. The reference sought for by the workman cannot be said to be delayed or suffering from a lapse, when law does not prescribe any period of limitation for raising a dispute. Therefore, the petition filed by the 2nd respondent cannot be rejected on the ground that



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it was filed after huge delay. Moreover, the Panchayat Commissioner has passed an order in favour of the 2nd respondent on 10.1.1989 directing the petitioner to reinstate him and to disburse the salary due to him. Thus, it is seen that immediately after termination, the 2nd respondent has approached the officials and had given representation seeking reinstatement and thus, the contention of the petitioner that 2nd respondent did not take any steps and has filed the petitioner after 18 years cannot be accepted.

9. For the reasons stated above, this Court is of the opinion that the order passed by the Labour Court does not suffer from any infirmity or illegality and thus, the order passed by the 1st respondent/Labour Court is affirmed. The Writ Petition stands dismissed. No costs. Consequently connected miscellaneous petition is closed.

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Index:Yes/No

Speaking/Non-speaking order
vsi

To

1. The Presiding Officer,
Labour Court, Salem.
2. The Commissioner,
Krishnagiri Panchayat Union,
Krishnagiri

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J.NISHA BANU,J.

vsi

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