

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.07.2023

CORAM :

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

W.P.No.3255 of 2016
and
WMP.No.2686 of 2016

V.Chezhian,
President,
Appamasamudram Village Panchayat,
Attur Taluk, Salem District.

...Petitioner

Vs.

1. The Presiding Officer,
Labour Court, Salem.

2. S.Perumal

...Respondents

Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the entire records pertaining to the award in I.D.No.517 of 2004 dated 21.08.2006 on the file of the 1st respondent herein and the consequential computation order dated 13.05.2015 in C.P.No.180 of 2008 on the file of the 1st respondent herein and quash the same.

For Petitioner : Mr.G.Arumugaraja

For Respondents : Mr.K.V.Shanmuganathan, for R2

ORDER

This Writ petition has been filed seeking quashment of the award of the 1st respondent dated 21.08.2006 made in I.D.No.517 of 2004 and the consequential computation order dated 13.05.2015 in C.P.No.180 of 2008.

2. The case of the petitioner is that, the petitioner temporarily engaged the services of the 2nd respondent as an electrical motor operator in Appamasamudram Village Panchayat, Salem District on a monthly remuneration of Rs.300/- during 2001-02. He was entrusted with the work of switching on the electric motor for the overhead tank and opening the gate valves for the release of water, which would take around 10 to 15 minutes a day. However, the 2nd respondent was irregular in attending to the work entrusted and from 06.12.2002, he stopped coming to the panchayat office and abandoned his temporary job. Therefore, the petitioner had no other option except to terminate his services after passing a resolution dated 02.01.2003, aggrieved by which, the 2nd respondent raised an industrial dispute in I.D.No.517 of 2004 before the 1st respondent, who in turn, without considering any of the above said facts, passed the impugned award

dated 21.08.2006, directing the petitioner panchayat to reinstate the 2nd respondent together with back wages, continuity of service, and other attendant benefits. Further, nearly after two years, the 2nd respondent filed a computation petition in C.P.No.180 of 2008 before the 1st respondent and the same was also mechanically allowed, vide order dated 13.05.2015. Challenging both the orders dated 21.08.2006 and 13.05.2015, the petitioner is before this Court.

3. Learned counsel for the petitioner submitted that, challenging the order of dismissal, the 2nd respondent earlier raised an industrial dispute in I.D.No.517 of 2004 before the 1st respondent alleging that he was appointed permanently as water tank operator and that without any prior notice, his services were terminated and in the said industrial dispute, though, the petitioner filed a counter denying the allegation that the 2nd respondent was appointed permanently and though, it was also brought to the notice of the 1st respondent that the 2nd respondent abandoned his temporary work and that was the reason as to why his services were terminated, however, the 1st respondent mechanically passed the impugned award dated 21.08.2006

directing reinstatement of the 2nd respondent together with back wages, continuity of service, and other attendant benefits. Further, the 1st respondent awarded back wages without the 2nd respondent establishing that he was not gainfully employed during the non-employment period. In the absence of any material evidence to show that he was not gainfully employed during the non-employment period, awarding the back wages is not sustainable. Further, the 1st respondent also allowed the computation petition filed by the 2nd respondent, seeking payment of the back wages for the period 06.12.2002 to 28.02.2007, without properly appreciating the counter filed by the petitioner, which is also *per se* illegal. Hence, he prayed for appropriate orders.

4. Per contra, the learned counsel appearing for the 2nd respondent submitted that, as against the resolution dated 02.01.2003 passed by the petitioner panchayat, with regard to the termination of his services, the 2nd respondent raised an Industrial Dispute before the 1st respondent, who, after careful consideration of the documents, passed the present impugned award dated 21.08.2006 and as the same was not challenged in the manner known

to law, the same became final. Further, once the Labour Court passed an award as against the petitioner panchayat, it is the duty cast upon the petitioner panchayat to comply with the same. However, in the present case, though the award is of the year 2006, the same was not complied with by the petitioner panchayat even after two years, which led in filing the computation petition by the 2nd respondent and the 1st respondent had rightly allowed the same and directed the petitioner panchayat to pay a sum of Rs.34,950/- along with interest at the rate of 6% to the 2nd respondent within a period of three months, failing which, the said amount should be paid with 9% interest, which does not warrant interference by this Court and accordingly, he prayed for dismissal of this Writ petition.

5. Heard the learned counsel for the petitioner and the learned counsel appearing for the 2nd respondent and perused the material documents available on record.

6. Admittedly, the 2nd respondent was working as an electrical motor operator in petitioner panchayat and was subsequently terminated from

service after passing a resolution dated 02.01.2003, aggrieved by which, the 2nd respondent raised an industrial dispute in I.D.No.517 of 2004 before the 1st respondent, in which the present impugned award dated 21.08.2006 came to be passed, ordering reinstatement of the 2nd respondent together with back wages, continuity of service, and other attendant benefits. Since the said award was not complied with the 2nd respondent filed a computation petition under Section 33C(2) of the ID Act in C.P.No.180 of 2008 before the 1st respondent and the same was allowed by order dated 13.05.2015, in which, this Court does not find any fault and the same is perfectly in order.

7. Further, a careful perusal of the order passed by the Tribunal reveals that the Tribunal has taken into consideration all the materials placed before it while appreciating the case of the parties and ordering reinstatement of the workman along with back wages. Though it is the claim of the panchayat that the workman was only employed in a temporary capacity, however, the same has not been substantiated with any material records and the Tribunal has not accepted the contention for the reasons set forth in the order impugned. Resultantly the order has come to be passed for

reinstatement along with back wages and for enforcing the part relating to back wages, the computation petition has been filed, as the back wages were not paid. Backwages being a pre-existing right on the basis of the award passed by the Tribunal in favour of the workman, rightly, the said computation petition was allowed. Holistically considered both the orders passed by the Tribunal does not suffer any perversity or illegality and the same does not warrant any interference.

8. For the reasons aforesaid, this Writ petition stands dismissed. No costs. Consequently, the connected Miscellaneous petition is closed.

03.07.2023

skt

Index : Yes (or) No
Neutral Citation : Yes (or) No
Speaking Order : Yes (or) No

To

The Presiding Officer,
Labour Court,
Salem.

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M.DHANDAPANI., J.

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