



W.P.No.17167 of 2019
and W.M.P.No.16715 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2023

CORAM

THE HONOURABLE MRS. JUSTICE **R. HEMALATHA**

W.P.No.17167 of 2019
and W.M.P.No.16715 of 2019

The Executive Officer,
Jambai Town Panchayat,
Jambai Post, Bhavani Block,
Erode District.

... Petitioner

Vs.

1.S.Valli
2.The Assistant Director of Town Panchayat,
Erode.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records pertaining to the impugned Award dated 13.06.2018 in I.D.No.16/2016 on the file of the Presiding Officer, Labour Court, Salem and quash the same.

For Petitioner : Mr.Jayaprakash Narayanan

For R1 : Mr.P.Vetrivel

ORDER

The first Respondent S.Valli was working as a Sweeper in the petitioner Jambai Town Panchayat on daily rated basis and she was orally terminated from service with effect from 20.06.2015. The matter was



W.P.No.17167 of 2019
and W.M.P.No.16715 of 2019

referred to Conciliation and since the Conciliation failed, the first respondent approached the Presiding Officer, Labour Court, Salem by raising an Industrial Dispute under Section 2(A)(2) of the Industrial Disputes Act in I.D.No.16/2016. The petitioner Executive Officer, Jambai Town Panchayat remained absent and was set *ex parte*. The Presiding Officer, Labour Court, Salem vide his orders dated 13.06.2018 after analysing the evidence on record and held that

- a) Since the first respondent has been working continuously for a period of 480 days in 24 calendar months she must be conferred permanent status with effect from 20.06.2015.
- b) The first respondent should also be paid full backwages as per regular time pay scale.

Aggrieved over the same, the present writ petition is filed.

2. Mr.Jayaprakash Narayanan, learned counsel for the writ petitioner would contend that the Labour Court did not serve notice on the writ petitioner as mandated under Order V Rule 17 of the Code of Civil Procedure and thus they have not been given reasonable opportunity to putforth their contentions. It is further contended that the Labour Court



W.P.No.17167 of 2019
and W.M.P.No.16715 of 2019

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had failed to take into account that the first respondent S.Valli was appointed only as per resolution passed by the Jambai Town Panchayat and she has not been recruited through proper channel i.e. Employment Exchange or by giving wide paper publication. In any event, the first respondent did not plead and prove that she was not gainfully employed elsewhere and therefore, the orders passed by the Labour Court, Salem directing the writ petitioner to pay the entire backwages is totally erroneous, is his contention.

3. *Per contra*, Mr.P.Vetrivel, learned counsel for the first respondent would contend that the first respondent has been working in the petitioner Town Panchayat since November 2001 and this has been admitted by the writ petitioner in his affidavit. In such circumstances, the orders passed by the Labour Court, Salem is perfectly in order.

4. At the outset, it may be observed that the Labour Court directed the writ petitioner to confer permanent status upon the first respondent on the premise that she has been working continuously for a period of 480 days in 24 calendar months.



W.P.No.17167 of 2019
and W.M.P.No.16715 of 2019

WEB COPY

5. This direction is given even without calling for the relevant records from the Town Panchayat. Even if the writ petitioner remained absent and was set *ex parte* the Labour Court could have called for the records from the writ petitioner before directing the latter to confer permanent status on the first respondent. The Labour Court also directed the writ petitioner to pay full backwages with costs of Rs.2,000/-.

6. This Court while invoking provisions of Article 226 Constitution of India cannot conduct a roving enquiry as to whether the first respondent actually worked 480 days in 24 calendar months as claimed by her and whether she was appointed through proper channel. The contentions of the first respondent is that as per G.O.No.199 dated 12.08.1997 the first respondent is entitled for conferment of permanent status. This G.O. applies to those persons who joined service on consolidated basis on or before 31.12.1996. This G.O. has not been marked before the Labour Court. It is settled law that when a document has not been marked before the Labour Court the same cannot be introduced while invoking the provisions of Article 226 of the Constitution



W.P.No.17167 of 2019
and W.M.P.No.16715 of 2019

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of India. In the facts and circumstances, this Court is of the view that it is just and necessary to remit back the matter to the Labour Court, Salem. Accordingly, the matter is remitted back to the Labour Court, Salem and the Presiding Officer, Labour Court, Salem is directed to dispose of I.D.No.16/2016 on merits within a period of three months from the date of receipt of a copy of this order. The writ petitioner is directed to file his counter and the order of *ex parte* passed against them is set aside.

With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

24.11.2023

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
mtl

To

The Assistant Director of Town Panchayat, Erode.

R. HEMALATHA, J.

mtl



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W.P.No.17167 of 2019
and W.M.P.No.16715 of 2019

W.P.No.17167 of 2019
and W.M.P.No.16715 of 2019

24.11.2023