



W.P.Nos.6393 & 11478 to 11494 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.Nos.6393 & 11478 to 11494 of 2016

and

**W.M.P.Nos.5688, 9900, 9902, 9904, 9906, 9908, 9910, 9912, 9914,
9916, 9918, 9920, 9922, 9924, 9926, 9928, 9930 & 9932 of 2016**

W.P.No.6393 of 2016

Chief Executive Officer,
District Forest Officer,
Sandalwood Industrial Complex,
Tirupattur – 635 601,
Vellore District.

... Petitioner

Vs.

- 1.Mallika
- 2.Rathinammal
- 3.Vasantha
- 4.K.Vijaya
- 5.Pachiyammal
- 6.R.Selvi
- 7.Jothi
- 8.Lakshmi
- 9.Kamala
- 10.Chinnakannu
- 11.Rani
- 12.Karpooravalli



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- 13.Banu
14.Krishnaveni
15.M.Neela
16.K.Rajamanickam
17.P.Vanitha
18.Padma

19.The Inspector of Labour,
Thiruvannamalai.

... Respondents

Prayer in W.P.No.6393 of 2016 : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records proceedings No.Na.Ka.E3458/2014 dated 12.12.2014 on the file of nineteenth respondent and quash the same.

W.P.No.6393 of 2016

For Petitioner : Mr.V.Ravi
Special Government Pleader
For Respondents : Mr.S.Mani [R1, R3, R6, R11,
R13 & R17]
No appearance [R2, R4, R5,
R7 to R10, R14 to R16, R18
& R19]

W.P.Nos.11478 to 11494 of 2016

For Petitioner : Mr.V.Ravi
Special Government Pleader
For Respondents : No appearance [R1]



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COMMON ORDER

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Though the above writ petitions were listed as different matters in the cause list, since the issue involved in both the writ petitions being one and the same, with the consent of the learned counsel appearing for both sides, these writ petitions were heard together and disposed of by this common order.

2. The case of the petitioner is that, the private respondents/workmen were engaged as Grade III female mazdoors in the Additional Sandalwood Depot on daily wage basis. They were paid wages at the rates fixed by the Principal Chief Conservator of Forests/Conservator of Forests, which is equal to the rates fixed by the Labour and Employment Department for the Sandalwood Depot workers for the days of attending the work. They were engaged only on working days in the Depot between 8.30 a.m. to 01.00 p.m. and 1.30 p.m. to 05.00p.m. and they were paid on muster roll. Earlier, the wages were paid once a week and subsequently, as per their request, they were paid once a month and the payments were made after obtaining their



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signatures in the individual muster roll. The private respondents/workmen were engaged as a casual labour as and when there was work and they were paid accordingly. In view of the ban on export of Sandalwood imposed by the Central Government and due to a major fire accident occurred on 16.03.1997 in the Additional Sandalwood Depot resulting in heavy loss and affecting the incoming of Sandalwood logs which resulted in closing down of the Additional Depot itself and they were stopped from working since 10.09.1997. Thereafter, the private respondents/workmen raised Industrial Disputes in I.D.Nos.15 to 34 and 36 of 1999 before the Labour Court, Vellore to reinstate them with full back wages and continuity of service. After adjudication, the Labour Court passed an award in favour of the private respondents/workmen. Challenging the same, the petitioner has filed writ petitions before this Court in W.P.Nos.3476 to 3497 of 2001. This Court, by its order dated 01.12.2009 confirmed the order passed by the Labour Court, against which, writ appeals filed in W.A.Nos.581 to 602 of 2010 was filed before the Division Bench of this Court and the same was also dismissed confirming the order passed by the learned Single Judge of this Court. Thereafter, the petitioner preferred SLP before the Apex Court in



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S.L.P.Nos.12381 to 12402 of 2012 and the same has been converted as Civil Appeal Nos.1311 to 1332 of 2013 and the same is pending before the Apex Court. While so, the private respondents/workmen were out of employment from 1997 onwards. Therefore, the question of claiming back wages during the period of non-employment does not arise. However, the Labour Court ordered back wages to the private respondents/workmen. The said questions are now subject matter of above civil appeals before the Apex Court and the matter is sub-judice before the Apex Court. Thereafter, the very same private respondents/workmen filed another petition before the 19th respondent/Labour Court for declaring Permanency Status to them. The 19th respondent passed an award in favour of the private respondents/workmen on 12.12.2014. Challenging the same, W.P.No.6393 of 2016 is filed before this Court. Thereafter, the private respondents/workmen filed computation petitions before the Principal Labour Court, Vellore and the said computation petitions were ordered in favour of the private respondents/workmen. Challenging the same, W.P.Nos.11478 to 11494 of 2016 were filed before this Court.



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3. The learned Special Government Pleader appearing for the petitioner submits that, the private respondents/workmen were engaged as Grade III female mazdoors in the Additional Sandalwood Depot on daily wage basis. Due to fire accident, the Depot was closed on 10.09.1997 and they were stopped from working, against which, they raised Industrial Disputes before the Labour Court and the Labour Court passed award in their favour. However, the subject matter is pending before the Apex Court. While so, the private respondents/workmen filed petitions before the 19th respondent for declaring them Permanency Status and the 19th respondent without ascertaining whether the private respondents/workmen continuously worked for 480 days or not, had mechanically allowed the petitions on 12.12.2014 filed by the private respondents/workmen, which is not sustainable. When the issue is pending before the Apex Court, the 19th respondent entertained the petition filed by the private respondents/workmen is not sustainable. Pursuant to the proceedings of the 19th respondent dated 12.12.2014, they have filed computation petition before the Principal Labour Court, Vellore and the same was also ordered in favour of the private respondents/workmen. Since the proceedings of the 19th respondent itself



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is not sustainable, the award passed by the Principal Labour Court, Vellore vide order dated 09.09.2015 pursuant to the proceedings of the 19th respondent is also not sustainable. Accordingly, he prays for allowing the writ petitions.

4. Though the names of the private respondents/workmen appeared in the cause list, however, no one appeared on behalf of the private respondents/workmen. Considering the pendency of these writ petitions, this Court is inclined to dispose of these writ petitions with the available materials on record.

5. Heard the learned Special Government Pleader appearing for the petitioner and perused the materials available on record.

6. Admittedly, the private respondents/workmen were employed as Grade III female mazdoors in the Additional Sandalwood Depot on daily wage basis and the working pattern of the private respondents/workmen's job is in between 8.30 a.m. to 01.00 p.m. and 1.30 p.m. to 05.00 p.m. Initially, they were paid weekly wages and thereafter, they were paid



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monthly wages and that fact was not disputed by the petitioner in the affidavit. The private respondents/workmen were not engaged in work from 10.09.1997 and the said issue was questioned in I.D.Nos.15 to 34 and 36 of 1999 before the Labour Court, Vellore to reinstate them with full back wages and continuity of service. The Labour Court passed award in favour of the private respondents/workmen and that was affirmed by the learned Single Judge as well as the Division Bench of this Court and the said issue is pending before the Apex Court. While so, the very same private respondents/workmen filed petitions under the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 before the 19th respondent and the 19th respondent allowed the same.

7. However, the short issue arises in these writ petitions is whether the private respondents/workmen continuously worked with the petitioner for 480 days or not. In the present case, when the Labour Court passed award in the year 1997 and the said award was affirmed by this Court and prior to that, in all practical purpose, the petitioner themselves admitted in their affidavit that the private respondents/workmen were



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engaged continuously from 08.30 a.m. to 01.00 p.m. and 1.30 p.m. to 05.00 p.m. and they were paid monthly wages. Further, though the petitioner not established the case that the private respondents/workmen were not continuously employed for 480 days, however, the Labour Court on categorical terms arrived a conclusion that the private respondents/workmen continuously worked for more than 480 days with the petitioner. Hence, the impugned orders cannot be interfered with and the writ petitions are liable to be dismissed.

8. It is to be pointed out that the pendency of the issue before the Apex Court relates to payment of back wages which was the subject matter covered in W.A.Nos.581 to 602 of 2010 and it has nothing to do with the present issue raised in these writ petitions. The issue before the Apex Court is whether the private respondents/workmen are entitled for reinstatement with back wages or not, whereas the issue which arises in these matters is with regard to conferment of permanent status. The Labour Court after conducting elaborate trial arrived at a conclusion that the private respondents/workmen completed 480 days with the petitioner



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and therefore, passed the impugned orders, which cannot be interfered with.

9. Accordingly, these writ petitions are dismissed. No costs.

Consequently, the connected miscellaneous petitions are closed.

05.07.2023

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation Case : Yes / No

sp

To

1.The Presiding Officer,
The Principal Labour Court,
Vellore, Vellore District.

2.The Inspector of Labour,
Thiruvannamalai.



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9927, 9929, 9931, 9913, 9915,
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in

**W.P.Nos.11479, 11480, 11481,
11482, 11483, 11484, 11490,
11491, 11492, 11493, 11494,
11485, 11486, 11487, 11488 &
11489 of 2016**

M.DHANDAPANI, J.

Dispensed with for the
present.

sp

05.07.2023
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