



W.P.No.7922 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.7922 of 2016

The Commissioner,
Thiruvannamalai Municipality,
Thiruvannamalai.

... Petitioner

Vs.

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

2.C.Vijayabalan

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records made in the impugned judgement in I.D.No.72 of 2014, dated 18.11.2014 passed by the Learned Presiding Officer, Vellore U/s.2A (2) of the (Industrial Disputes Act, 1947), quash the same.

For Petitioner : Mr.S.Eraskine Leo

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

O R D E R

The petitioner has filed this writ petition seeking issuance of



W.P.No.7922 of 2016

Writ of Certiorarified Mandamus to call for the records made in the impugned judgement in I.D.No.72 of 2014, dated 18.11.2014 passed by the learned Presiding Officer, Vellore U/s.2A (2) of the (Industrial Disputes Act, 1947) and to quash the same.

2.The case of the petitioner is that the second respondent was engaged in the petitioner Municipality as daily labour on temporary basis as per order dated 03.09.1991 to 07.11.1996. Thereafter, the second respondent never continued the work under the petitioner. Whiles, the second respondent filed O.A.No.1189 of 1997 before the Tamil Nadu Administrative Tribunal seeking direction to the respondents therein to regularise his service from the date of initial appointment and on abolition of the Tribunal, O.A.No.1189 of 1997 was transferred to the file of this Court and re-numbered as W.P.No.26299 of 2006. The said writ petition was disposed of by this Court on 12.04.2010 and in the said order it was held that it is open for the second respondent to approach the petitioner for regularization, if under law, he is entitled for the same.

3.The further case of the petitioner is that thereafter the second respondent filed petition under Section 2A(2) of the Industrial



W.P.No.7922 of 2016

Disputes Act, 1947 before the first respondent and the first respondent passed the impugned order directing the petitioner to extend the benefit of G.O.Ms.No.125, Municipal Administration and Water Supply Department, dated 27.05.1999 to the second respondent and to regularise the service of the second respondent and to place the second respondent in time scale of pay along with continuity of service, backwages and all other attendant benefits. Challenging the same, the petitioner has filed this writ petition.

4.The learned counsel appearing for the petitioner submitted that during the pendency of this writ petition, the petitioner appointed the second respondent in the regular vacancy and placed him in time scale of pay. However, the grievance of the petitioner is that whether the first respondent has power for issuing direction to the petitioner to extend the benefit of G.O.Ms.No.125, Municipal Administration and Water Supply Department, dated 27.05.1999 to the second respondent since G.O.Ms.No.125 was issued by the Government as a one time measure to regularise the services of the persons who have rendered more than 10 years service. The first respondent can exercise its power only in terms of Section 2A(2) of the Industrial Disputes Act, 1947.



W.P.No.7922 of 2016

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5.The learned counsel appearing for the second respondent submitted that the second respondent was denied employment and hence, he had to approach the Tamil Nadu Administrative Tribunal and the Labour Court.

6.Heard the arguments advanced on either side and perused the materials available on record.

7.The facts in the present case is not in dispute. Admittedly, the second respondent was engaged in the petitioner Municipality as daily labour on temporary basis as per order dated 03.09.1991 and he worked upto 07.11.1996. Thereafter, the second respondent filed O.A.No.1189 of 1997 before the Tamil Nadu Administrative Tribunal seeking direction to the respondents therein to regularise his service from the date of initial appointment and on abolition of the Tribunal, O.A.No.1189 of 1997 was transferred to the file of this Court and re-numbered as W.P.No.26299 of 2006. The said writ petition was disposed of by this Court on 12.04.2010 holding that it is open for the second respondent to approach the petitioner for regularization, if under law, he is entitled for the same.



W.P.No.7922 of 2016

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8. Thereafter the second respondent filed petition under Section 2A(2) of the Industrial Disputes Act, 1947 before the first respondent and the first respondent passed the impugned order directing the petitioner to extend the benefit of G.O.Ms.No.125, Municipal Administration and Water Supply Department, dated 27.05.1999 to the second respondent and to regularise the service of the second respondent and to place the second respondent in time scale of pay along with continuity of service, backwages and all other attendant benefits.

9. Admittedly, the first respondent have no power for issuing direction to the petitioner to extend the benefit of G.O.Ms.No.125, Municipal Administration and Water Supply Department, dated 27.05.1999 to the second respondent since G.O.Ms.No.125 was issued by the Government as a one time measure to regularise the services of the persons who have rendered more than 10 years service. The first respondent can exercise its power only in terms of Section 2A(2) of the Industrial Disputes Act, 1947.

10. In view of the above, the portion of the impugned order



W.P.No.7922 of 2016

passed by the first respondent in I.D.No.72 of 2014, dated 18.11.2014 ordering regularization of the second respondent alone is liable to be set aside. However, the fact remains that during the pendency of this writ petition, when vacancy arose in the petitioner Municipality, the petitioner appointed the second respondent in the regular vacancy and placed him in time scale of pay. Hence, this Court set aside the impugned order having regard to the subsequent employment acquired by the second respondent.

11.With the above observation, this writ petition is allowed. No costs.

20.07.2023

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Speaking Order/ Non Speaking Order
Index: Yes/ No
Internet: Yes/ No

To

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



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W.P.No.7922 of 2016

M.DHANDAPANI,J.
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W.P.No.7922 of 2016

20.07.2023