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W.P.No.11698 of 2004

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.06.2023

CORAM :  
THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

**Writ Petition No.11698 of 2004**

The Director,  
BCG Vaccine Laboratory,  
Guindy, Chennai – 600 032.

... Petitioner

Vs.

1.P.Arunmozhi  
  
2.The Presiding Officer,  
Central Government Industrial  
Tribunal – cum – Labour Court,  
26, Haddows Road, Shastri Bhavan,  
Chennai – 600 006.

... Respondents

Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorari calling for the records of the Honourable Central Government Industrial Tribunal – cum – Labour Court, Chennai made in I.D.No.63/2002 on 08.12.2003, quash the same.

For Petitioner : Mr.N.Ramesh

For Respondent 1 : Mr.P.Rajendhran

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For Respondent 2 : Court

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## **ORDER**

The relief sought by the petitioner in this writ petition is to call for the records of the Honourable Central Government Industrial Tribunal – cum – Labour Court, Chennai made in I.D.No.63/2002 on 08.12.2003.

### 2. The facts of the case in a nutshell:

The first respondent was appointed directly as a Casual Labourer in the petitioner's Laboratory w.e.f. 19.06.2000 without reference to the Employment Exchange and his appointment was periodically extended with break in service. His service was not extended beyond 31.01.2001, as there was no requirement of services of casual labour in the section, where he was posted. He served only for a total period of 174 days. The first respondent raised an industrial dispute before the Industrial Labour Commissioner (Central) by filing a Petition dated 04.09.2001. The petitioner replied by a letter dated 31.10.2001 that (1) The petitioner's organisation is not an industry and it is sub-institution of Central Government under administrative



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control of Ministry of Health & Family Welfare and hence, Industrial Disputes Act is not applicable and that (2) All employees are

governed by Central Service Rules. However, the dispute was referred to the second respondent/Central Government Industrial Tribunal cum Labour Court. The Tribunal has passed an award dated 08.12.2003, directing reinstatement of first respondent with full backwages and benefits. Aggrieved by the said award dated 08.12.2003, the petitioner has come forward with the present writ petition.

3. Learned counsel for the petitioner submitted that the first respondent was engaged as Daily Rated Casual Labourer for the period from 19.06.2000 to 30.06.2000 and on his engagement, he was paid at the rate of Rs.73/- per day for the days he worked as Daily Rated Casual Labourer. Subsequently, he was engaged for further period from 01.07.2000 to 31.07.2000, 01.08.2000 to 31.08.2000, 01.09.2000 to 05.09.2000, 18.09.2000 to 30.09.2000, 01.10.2000 to 31.10.2000, 01.11.2000 to 30.11.2000, 11.12.2000 to 31.12.2000 and finally for a further period from 01.01.2001 to 31.01.2001 and his



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engagement was not further extended by the petitioner and the first respondent has worked for only 174 days.

4. Learned counsel for the petitioner drew the attention of this Court to the letter dated 31.10.2001 in regard to the Industrial Dispute raised by the first respondent under the Industrial Disputes Act, 1947, wherein, it is stated that:

“ I am to inform that as stated in the said letter this Laboratory is a subordinate institution of the Central Government under the administrative control of the Ministry of Health & Family Welfare. All its employees are governed by the service rules as applicable to employees of other Central Government Departments and hence, this Laboratory is not an Industry and the Industrial Disputes Act, 1947 does not apply to this office.”

5. Learned counsel for the petitioner further drew the attention of this



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Court to the appointment order issued to Shri R.Madhana Gopal, who was sponsored by the Employment Exchange (Employment Exchange Registration No.5599/94) and posted as Animal Attendant with a scale of pay of Rs.2550/- per month, with effect from 23.02.2001.

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GOVERNMENT OF INDIA,  
BCG VACCINE LABORATORY  
GUINDY, CHENNAI - 600 032

No.A.12021/19/2000 Admn. Dated: 23.02.2001

**ORDER**

Sub:- BCG Vaccine Laboratory, Guindy, Chennai -  
Recruitment to the post of Animal Attendant  
Group "D" - By Direct Recruitment on temporary  
Basis - Regarding.

On the recommendation of the Departmental Selection Committee, the Director, BCG Vaccine Laboratory, Guindy, Chennai, is pleased to appoint Shri R. Madhana Gopal (Employment Exchange Registration No.5599/94), to the post of Animal Attendant, Group "D", in the BCG Vaccine Laboratory, Guindy, Chennai - 32, in the pay scale of Rs.2550-55-2660-60-3200, on temporary basis, with effect from 23.02.2001. Forth with on the terms and conditions specified in the Office Memo. of even No. dated 22.1.2001.

Shri R. Madhana Gopal will be on probation for a period of two years from the date of appointment, which may be extended or curtailed at the discretion of the appointing authority.

On his appointment to the post of Animal Attendant, Shri R. Madhana Gopal will draw a pay of Rs.2550/- per month in the pay scale of Rs.2550-55-2660-60-3200 plus usual allowances with effect from 23.02.2001.

(DR. N. ELANGESWARAN)  
DIRECTOR

To: Shri R. Madhana Gopal,  
No.51, Vellala Street,  
Ayanavaram, CHENNAI - 600 023.

Copy to: 1. Dr.K. Meenakshi, CMO  
2. Section-in-charge  
3. Smt. M. Pushpanani, O.S  
4. Shri B. Babu, UDC  
5. Pay Bill (2)  
6. Personal File - Admn./Estab.  
7. Service Book  
8. Office Order Register

23/2/2001  
(DR. N. ELANGESWARAN)  
DIRECTOR



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6. Learned counsel for the petitioner further drew the attention of this Court to ground C of the affidavit, wherein, it is stated that the appointment of Shri R.Madhanagopal as Casual Labourer was extended, as his services were required in the Section, where he was working. Moreover, he was sponsored by the Employment Exchange, whereas the first respondent was not sponsored by the Employment Exchange. However, Shri R.Madhanagopal's appointment as Casual Labourer too was not extended beyond 22.02.2001. But, he was appointed as Animal Attendant with effect from 23.02.2001, consequent upon his selection by the Departmental Selection Committee (DSC). Further, Shri R.Madhangopal had submitted his application for the post of Animal Attendant in response to the Circular of the Petitioner's office **whereas, the first respondent did not submit any such application.** Moreover, according to the Reservation Roster, the said post of Animal Attendant was to be filled by an OBC Candidate and Shri R.Madhangopal, being an OBC Candidate was selected after due procedure. Subsequently, when the petitioner's office sought to make an application to the post of Laboratory Peon, Shri R.Madhanagopal was sponsored by the Employment Exchange. Besides that, the said post of Laboratory Peon as



also to be filled by on OBC candidate. Therefore, based on the recommendations of the Departmental Selection Committee, Shrii R.Madhanagopal was appointed as Laboratory Peon w.e.f. 26.03.2001. Therefore, the second respondent has erred in comparing the appointment of Shri R.Madhanagopal with that of the first respondent.

7. Learned counsel for the petitioner further submitted that the engagement of Casual Labourer and discontinuation of engagement will not, by any stretch of interpretation, amount to 'Retrenchment' under section 25G of the Industrial Disputes Act. The first respondent was engaged as Casual Labourer only for a total period of 174 days. Even to seek regularization, the OM/Law mandates, engagement as Casual Labourer for not less than 240 days. Hence, the first respondent was not entitled to claim regularization of his service.

8. Learned counsel for the petitioner further submitted that the findings of the Tribunal that the non-employment is in total violation of the provisions contained in Section 25G of the Industrial Disputes Act is not



correct. The provisions of Section 25G deals with procedure for retrenchment. When the law excludes the non-renewal of the contract of employment between the employer and the workman concerned on its expiry from the purview of retrenchment, the said provisions of Section 25G also stand excluded as it deals only with the procedure for retrenchment. The non-consideration for further employment was due to the reason as there was no requirement of his services. It is pertinent to point out that the first respondent was employed as casual labourer without following the rules which stipulate that the employee should be sponsored by the employment exchange. He had been engaged against the rules – only on the oral instructions of a higher official visiting and the same was also admitted by the first respondent in his claim petition before the Tribunal, which is irregular and against the rules and hence illegal. As per **OM No.49014/2/93 Estt. (C) dt. 12<sup>th</sup> July 1994, of the Ministry of Personnel, Public Grievances and Pensions (Deptt. Of Personnel and Training)**, and as per Clarification in Sl.No.1,

*“Since it is mandatory to engage casual Employees through Employment Exchange, the appointment of casual employees without Employment Exchange is irregular, hence*





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*such casual employees cannot be bestowed with temporary status.”*

Thus, as per the instructions of the Government of India, the first respondent cannot be even considered for temporary status.

9. Learned counsel for the petitioner further submitted that the employment of casual labourer was made statutory with the introduction of the Employment Exchanges (Compulsory Notification of vacancies) Act, 1959. It was made applicable to all establishments owned by the Central Government or a department of the Central Government. All vacancies in Central Government Establishment other than those filled through the UPSC or agencies like the Staff Selection Commission should be notified to the nearest Employment Exchange and no department or office should fill any vacancy by direct recruitment (**MHA OM.No.71/49-DGS, DT 11-12.49 R/W mha om. No.14/11/64-Estt (D) dt 21.3.64**).

10. The learned counsel for the petitioner further submitted that there is no illegality in the non-engagement of the first respondent after 31.01.2001. In the case of casual labour, there is no requirement for issuing any kind of



notice to him regarding non-renewal of engagement. Such daily rated Casual

Labourers are appointed for a period of one month for carrying out work of casual and seasonal nature. Based on the exigencies of work, their appointments are continued for a further period of one month and they are informed accordingly. Hence, such appointments cease to exist on completion of one month and the same is extended, only if there is any work of casual or seasonal nature. In the case of the first respondent, his appointment as casual labourer was not extended beyond 31.01.2001 due to the reasons mentioned above.

11. Learned counsel for the petitioner further submitted that the case of the first respondent is not falling under Retrenchment as per S.2(OO) (BB), the applicability of 25(G) of the Industrial Disputes Act, 1947, particularly the principle of 'last come, first go' is not at all applicable to the present case. In the award, it is stated that the first respondent produced Employment Exchange Registration card, which evidenced his registration in 1993. It is further claimed by the first respondent that Shri R.Madhanagopal got registered only subsequently in the year 1994. However, what matters is, the



recommendation of the Employment exchange. The undisputed fact as evidenced by the copy of the letter dated 01.06.2001 of the District Employment Officer, Chennai does not contain the name of the first respondent. Hence, there is no room for any irrebuttable presumption that the Employment Exchange would have sponsored the name of the first respondent before sponsoring the said Shri R.Madhanagopal.

12. The learned counsel for the petitioner further submitted that the direction of the Tribunal to reinstate the employee is against the decisions of the Hon'ble Supreme court as held in the case of ***Jagbir Singh Vs. Haryana State Agriculture Marketing Board and Anr. 2009-15-SCC- 327*** which reads as under:

*“7. It is true that earlier view of this Court articulated in many decisions reflected the legal position that if the termination of an employee was found to be illegal, the relief of reinstatement with full back wages would ordinarily follow. However, in recent past, there has been a shift in the legal position and in long line of cases, this Court has consistently taken the view that relief by way of reinstatement with back wages is not automatic and may be wholly inappropriate in a given fact situation even though the termination of an employee is in*



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*contravention to the prescribed procedure. Compensation instead of reinstatement has been held to meet the ends of justice. The said view has been relied upon by the Hon'ble SC in Senior Superintendent Telegraph (Traffic) Bhopal vs Santhosh kumar seal & others. CDJ 2010 SC 374,"*

13. The first Respondent heavily relies on the findings of the Labour Court without appreciating the catena of decisions upholding the predominance of the service Rules over the provisions of the Industrial Disputes Act. In the case of, ***The Director of Postal Services Vs. K.R.B. Kaimal and Anr. (Full Bench); 1984 Labour and Industrial Cases***, it was held that:

*“ We therefore hold that the writ petitioners are not entitled to invoke Section 33(c)(2) of the Ind Disputes Act, that the Tribunal constituted under the Act has to jurisdiction to consider this claim, that they are governed by Rule 5 of the Central Civil Services (Temporary Service) Rules, 1965 and not by Chapter V-A of the Industrial Disputes Act and in reversal of the single Judge's judgment, allow the appeal and dismiss the original petition; but in the circumstances of the case.”*

Before coming to the said conclusion, it was analysed the constitutional provisions viz-a viz the provisions of the Industrial Act and the Service rules



applicable to the Government servants. Further, it examined the following issues:

“The petitioners were governed by the Special Rules framed under Article 309 of the Constitution, their services are liable to be terminated and their monetary claim is limited under those rules and the Industrial Disputes Act cannot be invoked in their case.

(a) Industrial Disputes Act will not apply to the area covered by the rules framed under Article 309 of the Constitution.

(b) The principle “Generalibus specialia derogant” applies and special rules under Article 309 should prevail over the general provision under the Industrial Disputes Act.

(c) The subsequent rules under Article 309 override the earlier provision of the Industrial Disputes Act

(d) Section 33(c)(2) of the Industrial Disputes Act in its entirety cannot apply to Government Servants and

(e) In any case, the Industrial Disputes Act in its entirety cannot apply to all the Government Servants.

It was further held that where the conditions of service, the scale of pay



and the conduct rules regulating the service conditions are governed by the statutory regulation, the provisions of Industrial Disputes Act are not applicable and it is outside the jurisdiction of the Labour Courts acting under the provisions of Industrial Disputes Act, 1947.

14. To conclude, the Hon'ble Labour Court erred in directing to reinstate the first respondent which is against the findings of the Hon'ble Supreme Court as held in the case of ***Himachal Road Transport Corporation v Dineshkumar CDJ 1996 SC 1633*** where it was held:

*“In the absence of a vacancy it is not open to the Corporation to appoint a person to any post. It will be a gross abuse of the powers of a public authority to appoint persons when vacancies are not available... The Tribunal should only give a direction to the appropriate authority to consider the case of a particular applicant.... It is not open to the Tribunal either to direct the appointment of any person to a post or direct the authorities concerned to create supernumerary post and then appoint such a person to a post. We are of the view that directions given by the Administrative Tribunal are totally unauthorized and illegal”.*

15. The learned counsel for the petitioner submitted that the recruitment rules are made by the government for all civil servants and the



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scheme of regularization is not applicable to the first respondent and as he was not sponsored by the Employment Exchange, he could not be considered for further employment after his engagement was not renewed after 31.01.2001. Hence, he prayed for allowing this writ petition.

16. The learned counsel appearing for the first respondent submitted that after the termination of the first respondent on 31.01.2001, the petitioner has appointed one Shri R.Madhanagopal as Animal Attendant with effect from 23.02.2001, who is junior to the first respondent and he registered his name in the Employment Exchange in the year 1994 under Registration No.5599/1994, whereas, the first respondent has registered his name in the Employment Exchange on 08.06.1993 itself and engaged as Daily Rated Casual Labour with effect from 19.06.2000. Hence, it is crystal clear and evident that Shri R. Madhanagopal is junior to the first respondent.

17. The learned counsel appearing for the first respondent further submitted that Section 25(G) of the Industrial Disputes Act, 1947 has not been complied by the petitioner herein. For better appreciation, Section 25 (G) of the Industrial Disputes Act, 1947 is extracted hereunder:

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*“Where any workman in an Industrial Establishment who is a citizen of India, is to be retrenched and he belongs to a particular category of workman in that establishment, in the absence of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last person to be employed in that category unless for reasons to be recorded. The employer retrenches any other workman”.*

18. The learned counsel appearing for the first respondent drew the attention of this Court to paragraph (5) of the claim statement and the same reads as follows:

*“While so, the petitioner submits that without any notice or opportunity to the petitioner and without assigning any reason the petitioner was not permitted to work and was refused employment in February 2001, after he had worked until 31.01.2001. No written order of termination was issued to the petitioner. The petitioner was also not paid any retrenchment compensation. The petitioner further submits that certain other persons, namely, (i) Senthil Kumar (appointed on a date earlier to the petitioner) (ii) Madanagopal (appointed along with the applicant) (iii) Sasikumar (iv) Balaji and (v) Selvakumar ((iii) to (v) appointed subsequent to the petitioner as Casual Labour) are still retained and some of them have also been confirmed as Lab Peon. This is discriminatory.”*





19. The learned counsel appearing for the first respondent further drew the attention of this Court to paragraph (7) of the counter statement before the Industrial Tribunal/Labour Court and the same is extracted hereunder:

*“7. As stated earlier, the petitioner's appointment as Casual Labourer was continued from time to time with periodical breaks based on the exigencies of work in this Laboratory. Subsequently, the petitioner's appointment as Casual Labourer was not extended beyond 31.01.2001 as there was no requirement of services of Casual Labourers in respect of the Section where the Petitioner was posted earlier. As regards the petitioner's averment that “No written order of termination was issued” to him, it is submitted that the petitioner was appointed as Casual Labourer and normally in this Laboratory, such daily rated Casual Labourers are appointed for a period of one month for carrying out work of casual and seasonal nature. Based on the exigencies of work, their appointments are continued for a further period of one month and they are informed accordingly. Hence, such appointments cease to exist on completion of the one month time and the same is extended only if there is any work of casual or seasonal nature. In the case of the petitioner, his appointment as Casual Labourer was not extended beyond 31.01.2001 due to the reasons mentioned earlier. As regards “retrenchment compensation” claimed by the petitioner, it is submitted that there is no provision for such compensation”.*

20. The learned counsel appearing for the first respondent further



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submitted that as regards Shri R.Madhanagopal, it is submitted by the petitioner that he was sponsored by the Employment Exchange and was appointed as Daily Rated Casual Labourer w.e.f. 20.6.2000, consequent upon his selection by the Departmental Selection Committee. It may be seen that Shri R.Madhanagopal was appointed on the same date as that of the Petitioner. Though the appointment of the Petitioner was not extended beyond 31.1.2001, the appointment of Shri Madhana Gopal was extended as his services were required in the Section, where he was working. Moreover, Shri R.Madhanagopal was sponsored by the Employment Exchange, whereas the Petitioner was not sponsored by the Employment Exchange. Subsequently, Shri R.Madhanagopal was appointed as Laboratory Peon w.e.f. 26.06.2001.

21. The learned counsel appearing for the first respondent further submitted that as regards Shri B.Sasikumar, Shri R.Balaji and Shri A.Selvakumar, it is submitted that Shri Sasikumar and Shri Balaji were appointed as Laboratory Peons and Shri Selvakumar was appointed as Animal Attendant. The Petitioner's contention that these individuals were initially appointed as Casual Labourers is not true. These individuals were



sponsored by the Employment Exchange and their appointments were based on the recommendations of the Departmental Selection Committee after the mandatory interview for which they appeared along with other candidates sponsored by the employment exchange for recruitment to the post of Laboratory Peon and Animal Attendant.

22. The learned counsel appearing for the first respondent further drew the attention of this Court to the findings of the Labour Court. For better appreciation, the relevant portion of the same is extracted hereunder:

*“In this case, the petitioner contended that one Shri R.Madhanagopal, who was appointed along with him and Sasikumar, Balaji and Selvakumar who were appointed as Casual Labourers subsequent to his appointment, were retained in the lab and some of these persons have also been confirmed as lab peons. It is also contended on behalf of the Petitioner that it is in total violation of the provisions under Section 25 G of the Industrial Disputes Act, 1947. In this case, it is admitted by the Respondent that the Petitioner's service was not extended beyond 31.01.2001 and the reason stated for this is that there was no requirement of Casual Labour service in that section, where the Petitioner was posted. At the same time, it is the evidence of the Respondent side that the services of Madhanagopal were not extended beyond 22.02.2001 but however, Mr. Madhanagopal*



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*was re-appointed as Lab Peon with effect from 26.06.2001. It is his further evidence that Mr. Madhanagopal's selection was made by the Departmental Selection Committee and only after an interview. But, I do not understand how the Departmental Selection Committee has made this selection of Mr. Madhanagopal, while his senior (Petitioner) was not called for the interview. The action of the Respondent/Management is in total violation of the provisions contained in Section 25G of the Industrial Disputes Act, 1947. If the management thinks any person as surplus, 'last come first go' principle ought to be followed. In this case, it is not the case of the Respondent that the juniors were retained on account of any special expertise, in fact, the Respondent has not given any reason at the time of non-employment, for retaining the Petitioner's juniors namely, Madhanagopal and others while refusing employment to the Petitioner and therefore, non-employment is in total violation of the provisions contained in Section 25G of the Industrial Disputes Act. Therefore, the non-employment of the Petitioner is illegal."*

23. Heard the learned counsel on either side and perused the materials available on record.

24. In the present case on hand, the first respondent was engaged as Casual Labour on 19.06.2000 at the rate of Rs.73/- per day for the days he



worked as Daily Rated Casual Labourer and subsequently, it was extended upto 31.01.2001 and after that, his engagement was not extended. The services of the first respondent was not extended for the reason that his services was not required in the section, where he was engaged as a Daily Rated Casual Labourer. On perusal of the records, it can be seen that the services of one Shri R.Madhanagopal, whose services was not extended and junior to first respondent was subsequently appointed on 23.02.2001 as Animal Attendant by order dated 22.03.2001 with the pay scale of Rs.2550/- per month and his probation for a period of 2 years from the date of his appointment. Then on 20.06.2001 Shri R.Madhanagopal was appointed to the post of Laboratory Peon with a pay of Rs.2550/- and will be on probation for a period of two years from the date of his appointment.

25. The first respondent was not permitted to work beyond 31.01.2001, but certain other persons viz., Senthil Kumar, Madhanagopal, Sasikumar, Balaji and Selvakumar were retained and some of them are confirmed as Lab Peon and among the said persons, Madhanagopal was appointed earlier to the first respondent. **Therefore, it is clear and evident that the first**



**respondent is senior to Shri R.Madhanagopal since, the first respondent was appointed on 19.06.2000, whereas Shri R.Madhanagopal was appointed only on 20.06.2000. Therefore, there cannot be any dispute with regard to the fact that the first respondent was appointed day earlier to the appointment of Shri R.Madhanagopal and the said Shri R.Madhanagopal is junior to the first respondent.**

26. The appointment order of the first respondent dated 19.06.2000 was also marked as Ex.W.8 before the Labour Court, by which the first respondent was also appointed as Daily Rated Casual Labour on the Departmental Selection Committee. **Ex.W.1, which was filed before the Labour Court is the Employment Exchange Registration Card of the first respondent dated 08.06.1993, whereas Ex.M.3 shows that Shri R.Madhanagopal registered his name only in the year 1994 under the registration No.5599/1994. Hence, it is clear that the first respondent has registered his name in the Employment Exchange much earlier to the said Shri R.Madhanagopal. Therefore, the Employment Exchange ought**



**to have sponsored the name of the first respondent, before sponsoring the name of Shri R.Madhanagopal.**

27. The first respondent is a “workman”, within the meaning of Section 2(s) of the Industrial Disputes Act, 1947. The writ petitioner herein falls within the meaning of “Industry” under Section 2 (j) of the Industrial Disputes Act, 1947, because the Management **Witness categorically admitted before the Labour Court that the petitioner laboratory is carrying on manufacturing process and they also do supply and distribution of vaccine.** The Labour Court has correctly held that the petitioner is an “Industry”. In the award of the Labour Court, the Management witness stated that the services of Shri R.Madhanagopal were not extended beyond 22.02.2001 and he was re-appointed as Lab Peon with effect from 26.06.2001. However, Ex.M.3 dated 23.02.2001 would clearly show that Shri R.Madhanagopal was appointed as Animal Attendant with effect from 23.02.2001 and as Lab Peon with effect from 26.06.2001. Therefore, it is clear that when the first respondent was not allowed to continue beyond 31.01.2001, Shri R.Madhanagopal was allowed to continue



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as Casual Labourer till 22.02.2001 and he was continued as Animal Attendant from 23.02.2001 and as Lab Peon from 26.06.2001. Therefore, he was continued in service without any break, whereas the first respondent, who is senior to Shri R.Madhanagopal was not permitted to work beyond 31.01.2001.

28. The first respondent and Shri R.Madhanagopal were initially appointed in the same category of “Daily Rated Casual Labourer” and they belonged to the “same category” as mentioned in Section 25(G) of the Industrial Disputes Act, 1947. Therefore, the termination of the services of the first respondent when his juniors have been retained is an violation of Section 25(G) of the Industrial Disputes Act, 1947 and the Labour Court has correctly held so. **The reason given by the petitioner for terminating the services of the first respondent is that “there was no requirement of services of Casual Labourers in respect of the section where the first respondent was posted earlier. Likewise the reason given for retaining the said Shri R.Madhanagopal beyond 31.01.2001 is that his services were required in the section where he was working is not sustainable for**





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**the reason that according to M.W.1, the entire lab is a single unit and for the purpose of seniority it is considered as a single unit.**

**29. Hence, the Labour Court has correctly held that the petitioner is an “Industry” within the meaning of the Industrial Disputes Act, 1947 and that as per Section 25(G) of the Act “Last come first go” should be followed while retrenching the workman and in this case, the first respondent's services were terminated when his juniors were retained and therefore, the termination is invalid in Law. Therefore, the first respondent is entitled to get relief of the reinstatement as rightly held by the Labour Court.**

30. It is a well settled law that under Article 226 of the Constitution of India, this Court cannot interfere with the findings/award of the Labour Court unless the same is perverse, arbitrary, unsustainable and illegal in the face of law.

31. Hence, this Court is of the considered view that there is no



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infirmity or perversity in the award passed by the Labour Court in I.D.No.63 of 2002 dated 08.12.2003, holding that the petitioner is an Industry within a meaning of Industrial Disputes Act, 1947 and that as per Section 25(G) of the Act “ Last come first go” should be followed while retrenching the workman and the first respondent is entitled for reinstatement.

32. The award passed by the Labour Court in I.D.No.63 of 2002 dated 08.12.2003 is hereby confirmed.

33. In the result, this writ petition stands dismissed. No costs.

**01.06.2023**

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Speaking Order : Yes/No

To:

The Presiding Officer,

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Central Government Industrial  
Tribunal – cum – Labour Court,  
26, Haddows Road, Shastri Bhavan,  
Chennai – 600 006.



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**J.SATHYA NARAYANA PRASAD,J.**

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**01.06.2023**