



W.P.No.18796 of 2017

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 14.08.2023**

**CORAM**

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

**W.P.No.18796 of 2017**

**and**

**W.M.P.No.20324 of 2017 and W.M.P.No.9111 of 2019**

The Highways Research Station,  
Guindy,  
Chennai - 600 025.

... Petitioner

**Vs.**

1. G.Shanmugam

2. Sagayanathan

3. T.Saravanan

4. V.Annamalai

5. C.Kumar

6. The Presiding Officer,  
II Additional Labour Court,  
Chennai.

... Respondents



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**PRAYER :** Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, call for the records relating to the order dated 10.04.2017 made in C.P.No.40 of 2009 on the file of the II Additional Labour Court, Chennai, the sixth respondent herein and quash the same.

For Petitioner : Mr.M.S.Prekumar  
Government Advocate

For Respondents : No appearance for R1 and R4  
R2, R3 & R5 - Not Ready Notice  
R6- Labour Court

### **ORDER**

The impugned award dated 10.04.2017 made in C.P.No.40 of 2009 passed by the sixth respondent is under challenge in the present Writ Petition.

2. The petitioner is the Highways Research Station. The Highways Research Station is a Research Organization of the Government of Tamil Nadu involved in research on materials and construction technology suitable for building roads and bridges. The respondents 1 to 5 were engaged as



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casual labourers for Gardening work and they were engaged intermittently and they were being paid daily wages till 17.01.1997. Thereafter, due to unavailability of work, they were stopped from attending duty. Hence, they raised an Industrial Dispute in I.D.Nos.467 to 473 of 1997. The Labour Court vide award dated 05.09.2002 directed reinstatement with backwages and continuity of service with all attendant benefits. Aggrieved by the said award, the petitioner / Management filed Writ Petitions in W.P.Nos.19209 to 19215 of 2003. Pending Writ Petitions, the petitioner / Management has also filed W.P.M.P.Nos.24015 to 24021 of 2003, wherein an order of interim stay was granted. The respondents 1 to 5 have filed W.M.P.Nos.32840 to 32845 of 2003 for claiming 17-B wages. By an order dated 01.11.2004, this Court had directed the petitioner / Management to pay arrears of last drawn wages of Rs.1,060/- per month to the respondents 1 to 5 pending disposal of the Writ Petitions. Since the petitioner was unable to implement the order, the respondents 1 to 5 have filed a Claim Petition in Claim No.40 of 2009 before the II Additional Labour Court, Chennai under Sections 33(C)(2) and 33(C)(5) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the



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Act') requesting the Labour Court to compute the monetary benefits due to the workmen along with 12% interest.

3. In the meanwhile, this Court vide common order dated 09.04.2014 disposed of the W.P.Nos.19209 to 19215 of 2003 directing reinstatement of the workers with continuity of service and other attendant benefits but without backwages within a period of eight weeks from the date of receipt of a copy of that order. Aggrieved by the said order, the petitioner / Management filed Writ Appeals with condonation of delay applications and the same are pending before this Court.

4. The Labour Court by its order dated 10.04.2017 in C.P.No.40 of 2009 directed the petitioner / Management to pay Rs.91,160/- each to the respondents 1 to 5 with 6% interest from September 2008. Aggrieved by the said order, the present Writ Petition has been filed.

5. The learned Government Advocate appearing for the petitioner



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/ Management challenges the impugned order passed by the Labour Court on the ground that the Labour Court failed to appreciate the fact that the petitioner is a Highways Research Station which did not fall under the classification of 'Industry' as defined under Section 2(i) of the Act and the Industrial Disputes as well as the Claim Petition ought not to have been entertained by the Labour Court. That apart, the Labour Court has failed to note that the respondents 1 to 5 were engaged on daily wage basis for attending some unskilled works and as soon as the works are completed, they have been disengaged. The Labour Court has also failed to note that the total work period put in by the respondents 1 to 5 did not exceed 240 days and therefore, the award passed by the Labour Court dated 05.09.2002 made in I.D.Nos.467 to 473 of 1997 as well as the impugned order dated 10.04.2017 made in C.P.No.40 of 2009 are totally untenable. Hence, the learned Government Advocate seeks indulgence of this Court in setting aside the impugned order.

6. Though the respondents 1 and 4 have been served, no one is



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appearing on behalf of them. However, the petitioner / Management has not taken any steps to serve notice to the respondents 2, 3 and 5.

7. This Court has carefully considered the materials placed on record and the arguments adduced by the learned Government Advocate appearing for the petitioner / Management.

8. There is no dispute that this Court in common order dated 09.04.2014 in W.P.Nos.19209 to 19215 of 2003 has categorically held that Section 25(f) of the Act is attracted and the services of the workmen cannot be terminated, except in the manner laid down under Sections 25(f) and 25(n) of the Act. This Court has also affirmed the view taken by the Labour Court that non-employment of the respondents 1 to 5 was unfair and directing reinstatement of the respondents 1 to 5 in service was just and proper. Therefore, this Court had modified the award by directing reinstatement but without backwages.

9. On perusal of the impugned order dated 10.04.2017 made in



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C.P.No.40 of 2009, this Court is of the view that the Labour Court has not considered the order passed by this Court in W.P.Nos.19209 to 19215 of 2003, which was marked as Ex.R2 before the Labour Court. Moreover, RW1 / Management witness in his cross-examination had categorically stated that the pendency of the Writ Petitions as well as filing of Miscellaneous Petitions by the workmen claiming 17B wages was not at all considered, therefore, this Court is of the view that the impugned order dated 10.04.2017 made in C.P.No.40 of 2009 can be set aside and the matter needs to be remanded back to the Labour Court for fresh consideration.

10. Accordingly, the impugned order dated 10.04.2017 made in C.P.No.40 of 2009 is set aside and the matter is remitted back to the Labour Court. The Labour Court is directed to consider the issue afresh by taking into consideration the order passed by this Court in W.P.Nos.19209 to 19215 of 2003 dated 09.04.2014 and pass appropriate orders within a period of twelve weeks from the date of receipt of a copy of this order.



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11. With the above directions and observations, this Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

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NCC: Yes / No  
Index : Yes / No  
Speaking Order : Yes / No

vji

To

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II Additional Labour Court,  
Chennai.
2. The Highways Research Station,  
Guindy,  
Chennai - 600 025.



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**M.DHANDAPANI, J.**

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