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W.P.Nos.31540 & 17849 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2023

CORAM

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

W.P.Nos.31540 & 17849 of 2018

and

W.M.P.Nos.36753, 36754,
21145 & 21146 of 2018

R.Chandran

... Petitioner in both cases

Vs.

1. The Director,
Department of Fisheries,
Chennai.

2. The Deputy Director,
Fisheries Department,
Dharmapuri Zone,
Dharmapuri District.

3. The Assistant Director,
Fisheries Department,
Mettur Dam Fishermen Cooperative
Marketing Society Limited,
KK-98, Mettur, Salem District.

4. Mettur Dam Fishermen Cooperative
Marketing Society Limited,
Rep. by its President,
KK-98, Mettur,
Salem District.

... Respondents in W.P.No.31540 of 2018

1. The Assistant Director of Fisheries



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WEB COPY (Island Fishing),
Mettur Dam - 1, Salem District.

2. The Management/Secretary
/In-charge Officer,
K.K.98, Mettur Dam Fisherman
Co-operative Sales Society,
Mettur Dam - 1. ... Respondents in W.P.No.17849 of 2018

Prayer in W.P.No.31540 of 2018: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, calling for the records in Proceedings No.Na.Ka.No.30/E/2014, dated 03.09.2018 on the file of the 3rd respondent and quash the same and direct the 3rd and 4th respondents to continuously engage the petitioner as daily labourer in the 4th respondent cooperative society.

Prayer W.P.No.17849 of 2018: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, directing the respondents to regularize the petitioner's service in the 2nd respondent office with all benefits as per the order of the Labour Inspector, Salem, dated 23.06.2017 in Application No.A/501/2017.

For Petitioner
in both W.Ps. : Mr.K.Prabhakaran

For Respondents in : Mr.D.Gopal,
W.P.No.31540 of 2018 Government Advocate

For Respondents in : Mrs.P.Vijayadevi,
W.P.No.17849 of 2018 Government Advocate



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COMMON ORDER

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At the time of admission, this Court passed the following orders

on 14.03.2019:

“When the matter is taken up for hearing, the learned counsel for the respondents seeks adjournment as he is not ready today.

2. According to the learned counsel for the petitioners, they already obtained an order in their favour from the Inspector of Labour to make them permanent and observe them as regular employees of the Mettur Dam Fishermen Cooperative Marketing Society Limited. However, since the same has not been implemented, a writ petition has been filed in W.P.No.17849 of 2018. When that writ petition is pending consideration, the present impugned

order was passed on 03.09.2018, stating that no employment could be considered for these petitioners, since the issue is pending before this Court.

3. This Court is unable to appreciate the stand taken by the respondents when admittedly these petitioners were employed for long years. When they obtained favourable order from the Inspector of Labour for making their service permanent, their position could not be worse



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of than they were before. Though obtaining favourable order from the Inspector of Labour, the casual employment of the petitioners itself was discontinued.

4. In view of the above, this Court is of the considered view that the interim direction as prayed for, can be granted by protecting the interim interest of the petitioners, pending final decision in the writ petition.

5. Therefore, there shall be an interim direction to the Management of the Mettur Dam Fishermen Cooperative Marketing Society Limited to engage the petitioners as casual employees, pending disposal of the writ petition. The above direction shall be complied with by the respondent Management, within a period of one week from the date of receipt of a copy of this order.”

2. Mr.D.Gopal, learned Government Advocate appearing for the respondents in W.P.No.31540 of 2018 and Mrs.P.Vijayadevi, learned Government Advocate appearing for the respondents in W.P.No.17849 of 2018 would contend that pursuant to the above orders of this Court, the petitioner continues to be engaged.

3. In fact, the Labour Inspector vide his orders in



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No.A/501/2017, dated 23.06.2018, directed the respondent Management / Mettur Dam Fishermen Cooperative Marketing Society Limited, to confer permanent status upon the petitioner and the said order has not been implemented so far. However, the respondent/Assistant Director, Fisheries Department, Mettur, Salem vide his proceedings dated 03.09.2018 in Na.Ka.No.30/E/2014 had stated that since the Writ Petition in W.P.No.17849 of 2018 is pending before the Court, the petitioner cannot be reinstated into service. The said proceedings, dated 03.09.2018, is under challenge in the Writ Petition in W.P.No.31540 of 2018.

4. The Writ petition in W.P.No.17849 of 2018 is filed, seeking for a direction to the respondents to regularize the petitioner's service in the respondent Management with all benefits as per the orders passed by the Labour Inspector, Salem vide application No.A/501/2017, dated 23.06.2017.

5. As per the Award passed by the Labour Inspector, dated



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23.06.2017, the 3rd respondent/Management has to confer permanent status upon the present Writ Petitioner and it has not been done by the respondents 3 and 4.

6. Considering the facts and circumstances of the case, this Court directs the respondent Management viz., the Management/Secretary/In-Charge Officer, KK.98, Mettur Dam Fisherman Co-Operative Sales Society, Mettur Dam-1 to implement the order passed by the Labour Inspector, Salem, in A/501/2017, dated 23.06.2017, within a period of eight weeks from the date of receipt of a copy of this order.

7. With the above direction, the Writ Petitions are disposed of.
No costs. Consequently, connected miscellaneous petitions are closed.

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Index: Yes/No
Speaking/Non-Speaking order
vum



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To

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Chennai.
2. The Deputy Director,
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Dharmapuri District.
3. The Assistant Director,
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vum

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(1/2)