



W.A.(MD)No.350 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **28.03.2023**

CORAM:

THE HONOURABLE MR.JUSTICE **R.SUBRAMANIAN**
AND
THE HONOURABLE MRS.JUSTICE **L.VICTORIA GOWRI**

W.A.(MD)No.350 of 2023
and
CMP(MD)No.3800 of 2023

The Executive Engineer,
Tamil Nadu Water Supply and Drainage Board,
Maintenance Division, Ramnad.

: Appellant

Vs.

M.Sakthivel (E.Code No.9465)
Maintenance Assistant,
S/o Muthukaruppan
Anumandhankudi Post,
Sooriyan Kudiyeruppu,
Devakottai Taluk,
Sivagangai District.

: Respondent/Respondent

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent to set aside the order dated 24.01.2023 in W.P(MD)No.10212 of 2020.

For Appellant

: Mr. Veerakathiravan
Additional Advocate General assisted by
Mr.B.Vijay Karthikeyan
Standing Counsel

For Respondent

: Mr.S.Arunachalam



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JUDGMENT

(Judgment of the Court was delivered by **R.SUBRAMANIAN, J.**)

The Writ Court has refused to interfere with the award of the Labour Court on the ground that the employer has not chosen to place materials before the Labour Court regarding the fairness of the enquiry conducted. In paragraph 9 of the order of the Writ Court, it has observed as follows:-

“9. The fact remains that the petitioner Board has conducted enquiry by appointing the Enquiry Officer and thereby, arrived at a conclusion that the Educational Certificate produced by the respondent/workman is a bogus one. Therefore, the petitioner Board ought to have submitted the report of the Enquiry Officer as well as the relevant documents before the Labour Court so as to enable the Labour Court to arrive at a conclusion. However, the petitioner Board has failed to let in any evidence and has not taken any steps to disbelieve the claim made by the respondent/workman. Hence, this Court is not inclined to interfere with the award passed by the Labour Court in I.D.No.88 of 2015 on 20.12.2019.”

2.We see no reason to differ from the conclusion of the Writ Court, more particularly, because of the specific stand taken by the Board that though an enquiry was conducted, papers were not placed before the Labour Court. If



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the papers are not placed before the Labour Court, the Labour Court has to proceed on the material i.e., available before it. Neither the Writ Court nor us exercising jurisdiction under Article 226 of the Constitution of India, could substitute the function of the Labour Court by looking into the documents at this stage. We therefore, see no scope for interference with the order of the Writ Court. The Writ Appeal fails and accordingly, the same is dismissed. We are sure that none production of the records before the Labour Court is at least 90% at the instance of the employee. The Officers working for the Board collude with the delinquent employee, more often putting the board in a disadvantageous position. If this has to stop, the Board should fix the responsibility for none production of the records on the persons concerned and take immediate action against them. Unfortunately, we see a persistent unwillingness on the part of the Board or the higher officials to take such action. We could only express the hope that such unwillingness is erased and prompt action is taken against those who help such delinquent employee to get away with awards from the Labour Court. No costs. Consequently, connected miscellaneous petition is closed.

[R.S.M.,J] (L.V.G.,J)
28.03.2023

skn

NCC : Yes/No

Index : Yes / No

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