



W.P.(MD)Nos.10212 of 2020 and 21059 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.01.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)Nos.10212 of 2020 and 21059 of 2021

W.M.P(MD).Nos.9097 of 2020, 17660, 18580 and 18584 of 2021

W.P(MD).No.10212 of 2020

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

... Petitioner

Vs.

M.Sakthivel

... Respondent

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari calling for the records pertaining to the impugned order passed by the Labour Court, Madurai in I.D.No.88 of 2015, dated 20.12.2019 and quash the same.

For Petitioner : Mr.B.Vijay Karthikeyan

For Respondent : Mr.S.Arunachalam



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M.Sakthivel

... Petitioner

Vs.

The Executive Engineer,
Maintenance Division,
Tamil Nadu Water Supply and Drainage Board (TWAD),
Ramanathapuram.

... Respondent

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records from the Labour Court, Madurai, relating to the impugned award dated 20.12.2019 in I.D.No.88 of 2015 insofar as denying the petitioner 50% back wages and other attendant benefits, quash the same and consequently to direct the respondent to pay him full back wages from 20.12.2013 to 30.06.2015 and to settle all his terminal and pension benefits by giving him continuity of service and all other attendant benefits.

For Petitioner : Mr.S.Arunachalam

For Respondent : Mr.B.Vijay Karthikeyan



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COMMON ORDER

The issue arising in the present writ petitions is one and the same and they are disposed of by way of this common order.

2. W.P(MD).No.10212 of 2020 has been filed to call for the records pertaining to the impugned order passed by the Labour Court, Madurai in I.D.No.88 of 2015, dated 20.12.2019 and quash the same.

3. W.P(MD).No.21059 of 2021 has been filed to call for the records from the Labour Court, Madurai, relating to the impugned award dated 20.12.2019 passed in I.D.No.88 of 2015, quash the same insofar as denying the petitioner 50% back wages and other attendant benefits and direct the respondent to pay him full back wages from 20.12.2013 to 30.06.2015 and to settle all his terminal and pension benefits by giving him continuity of service and all other attendant benefits.



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4. Hereinafter for better convenience and clarity, the petitioner in W.P.(MD).No.10212 of 2020 is referred to as the petitioner Board and the respondent in W.P.(MD).No.10212 of 2020 is referred to as the respondent/workman.

5. The case of the petitioner Board is that the respondent/workman had joined the service in the Petitioner Board on 28.02.1988 through Employment Exchange. During his service, a complaint with regard to the Education certificate produced by him was raised by one Shanmugam, stating that the Educational Certificate of the respondent/workman is a bogus one. Hence, he was removed from service on 20.12.2013 by the Petitioner Board. Thereafter, he has raised an Industrial Dispute in I.D.No.88 of 2015 before the Labour Court, Madurai and the Labour Court, Madurai had allowed the said petition vide award dated 20.12.2019, by setting aside the punishment of removal from service and granting continuity in service and 50% of backwages to the petitioner. Admittedly, the respondent/workman had produced the forged Educational Certificate at the time of employment. Hence, the petitioner Board had taken



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action against the respondent. However, without considering the above facts, the Labour Court has set aside the order of punishment of removal from service. Challenging the same, W.P(MD).No.10212 of 2020 has been filed.

6. The case of the respondent/workman is that admittedly, the respondent has entered into service in the year 1988. However, in the year 2010, a charge memo was issued alleging that the respondent has produced false Certificate for securing job and the respondent/workman submitted his detailed explanation on 14.05.2010. Without considering the explanation submitted by him, the suspension order was passed on 03.09.2013. The Enquiry Officer has drawn a proven minute as against the respondent/workman and based on the same, the removal order was passed on 20.12.2013, without issuing any notice to the respondent/workman. Hence, the respondent/workman has raised an Industrial Dispute in I.D.No.88 of 2015, before the Labour Court, Madurai. After hearing the arguments of both sides, the Labour Court has passed the impugned award, dated 20.12.2019 in I.D.No.88 of 2015 holding that the charges alleged



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against the respondent/workman were not proved and the domestic enquiry conducted by the petitioner Board as against the respondent/workman is not fair and proper and set aside the order of dismissal. However, the Labour Court has ordered only 50% of back wages for the period from 20.12.2013 to 31.06.2015, along with terminal benefits, with continuity of service and the denial of 50% of back wages is contrary to the law settled by the Hon'ble Supreme Court. Challenging the award, dated 20.12.2019 passed in I.D.No.88 of 2015 insofar as denial of 50% back wages and other attendant benefits, W.P(MD).No.21059 of 2021 has been filed.

7. Heard the learned counsel appearing for the petitioner Board and the learned counsel appearing for the respondent/workman.

8. The facts in the present case are not in dispute. Admittedly, the respondent/workman has entered into service in the year 1988 through Employment Exchange and during the relevant point of time, the petitioner Board has accepted the Educational Certificate produced by him. Thereafter, a complaint was raised as against the respondent/workman by the said



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Shanmugam. Thereby, a charge memo dated 15.04.2010 was issued against the respondent/workman and on 20.12.2013, the petitioner Board has issued the removal order. Thereafter, the respondent/workman has raised an Industrial Dispute before the Labour Court. Admittedly, before the Labour Court, the petitioner Board has not let in any oral and documentary evidence and on the side of the respondent/workman, Ex.W.1 to Ex.W.21 were marked.

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.



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costs.



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10. Accordingly, W.P(MD).No.10212 of 2020 is dismissed. No

11. Insofar as the denial of 50% backwages and the other attendant benefits to the respondent/workman are concerned, this Court has no reason to interfere with the award passed by the Labour Court, since the Labour Court, after considering the concept of “No work, No Pay” and perusing the materials available on record, has ordered 50% of backwages from 20.12.2013 to 31.06.2015. However, there shall be a direction to the petitioner Board to disburse the terminal benefits to the respondent as per the award passed by the Labour Court in I.D.No.88 of 2015 on 20.12.2019 within a period of six weeks from the date of receipt of a copy of this order.

12. Accordingly, W.P(MD).No.21059 of 2021 is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

24.01.2023

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



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To

Labour Court, Madurai



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M.DHANDAPANI,J.

ssb

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