



Writ Petition No.25676 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

Dated : 17.12.2024

Coram

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Writ Petition No.25676 of 2009

&

M.P.No.2 of 2009

The Management of
Ellappa Naidu Pettai Panchayat
Poondi Union
Kunnavalan Post
Thiruvallur Taluk
Thiruvallur District
Pincode: 631 210

.. Petitioner

vs.

1. The Presiding Officer
II Additional Labour Court
City Civil Court Buildings
Chennai – 600 104

2. V.Akkamma Naidu
S/o.Veerasley

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari after calling for the records relating to the order of the 1st respondent Labour Court dated 14.03.2000 passed in C.P.No.617 of 1999 and to quash the same.

For Petitioner

: Mr.V.Govardhanan



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3. Mr.V.Govardhanan, learned counsel appearing on behalf of the petitioner Panchayat would submit that even while passing the *ex parte* order, the Labour Court should have given detailed reasons. He would further submit that the workman has not established that he is covered by the Government Order. His further contention is that the Minimum Wages Act itself provides for specific remedy and when the workman has not availed the remedy within the period of limitation, he cannot avail the remedy before the Labour Court. The learned counsel would further submit that it is only a part time job for few hours and therefore, Labour Court ought to have considered the same.

4. I have considered the submissions made by the learned counsel for petitioner Panchayat and perused the material records of the case.

5. Firstly, the Labour Court has given reason in Paragraph 3 stating that the matter was taken up for enquiry. Labour Court specifically adverts to the evidence given by the workman as PW1 and documents, that are marked as Exs.P1 to P5 and states that claim is proved. Therefore, in an *ex parte* scenario, I hold that the same are adequate reasons and the award shows that there is a due application of mind. Therefore, I reject the first contention of learned counsel.



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6. As far as the second contention is concerned, the Government

Order itself classifies the workman into two categories. One under other local authorities and other under Village Panchayats. Further it re-classifies as un-skilled, semi-skilled and skilled. In semi-skilled, Grade II, 'Pump man' is mentioned. Merely because the nomenclature mentions as 'Pump Driver' or 'Pump Operator' or 'Pump Man' that will not create any dispute whether the workman is covered under the Government Order or not. It can be seen from GO, that GO intends to cover each and every category of workman who are all working in the local authorities. Therefore, when the minimum wage is fixed and Panchayat being an arm of the State is not even paying the minimum wages and only the difference of wages is being calculated by the Labour Court, I reject the second submission made by the learned counsel for the petitioner Panchayat and hold that there is a pre-existing right in the form of a GO and therefore, the jurisdiction is rightly exercised under Section 33 of Industrial Disputes Act.

7. Further, the remedies under the Industrial Disputes Act are notwithstanding any other remedy that may be available in the relevant statute. When more than one remedy is available to the workman and the



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workman has chosen to approach the Labour Court under Section 33(c)(2) of the Industrial Dispute Act, the only question is, whether he is entitled for computation under Section 33(c)(2) of Industrial Disputes Act. He will be entitled for computation if there is a pre-existing right. The pre-existing right is shown in the Government Order. Therefore, merely because there are other remedies under the Minimum Wages Act or any other remedy, that will not debar the workman from approaching the Labour Court. Accordingly I reject the third contention also.

7. Therefore, finding no merits, this writ petition is dismissed. The amount remains unpaid till today, shall be paid within a period of eight weeks from the date of receipt of a copy of this order. No costs.

17.12.2024

Index:No
Speaking Order
Neutral Citation:No
gpa

To

The Presiding Officer
II Additional Labour Court
City Civil Court Buildings
Chennai – 600 104



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D.BHARATHA CHAKRAVARTHY., J

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