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W.P.No.22851 of 2023

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

**DATED : 27.08.2024**

**CORAM :**

**THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH**

**W.P.No.22851 of 2023**  
**and WMP No.22325 of 2023**

R.Gvoindaraj  
Plot Watcher  
Vaniyampadi Social Forestry Range  
No.102, Reddiyur Village  
Nimmiyampattu Post  
Vaniyampadi Post  
Vellore District.

... Petitioner

-Vs-

- 1.The State of Tamil Nadu  
Rep.by the Principal Secretary to Government  
Department of Environment  
Forests and Climate Change  
Forest St.George, Chennai 600 009.
- 2.The Principal Chief Conservator of Forests  
Head of Forest Force  
Velacherry Main Road  
Guindy, Chennai 600 032.
- 3.The Chief Conservator of Forests  
Vellore Circle  
Pillaiyar Koil Street, Rangapuram  
Vellore-632 009.
- 4.The District Forest Officer  
Vellore Forest Division  
Vellore-632 009  
Vellore District.



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5.The Forest Range Officer  
Vaniyampadi Social Forestry Range  
Forest Department  
Vaniyambadi  
Thirupapathur District.

... Respondents

**Prayer** : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to appoint the petitioner as Forester Watcher in regular establishment with time scale of pay on par with similarly placed persons and consequently direct the 4<sup>th</sup> and 5<sup>th</sup> respondents to allow the petitioner to work as Plot Watcher as per the order of the 4<sup>th</sup> respondent dated 22.04.2021 with all service benefits.

For Petitioner : Mr.R.Jothimanian

For Respondents : Mr.C.Selvaraj  
Additional Government Pleader

### **ORDER**

This writ petition has been filed for the issue of a writ of mandamus directing the respondents to appoint the petitioner as the Forest Watcher in regular time scale of pay on par with similarly placed persons and direct the 4<sup>th</sup> and 5<sup>th</sup> respondents to permit the petitioner to continue with his work in the Forest Department.

2.The case of the petitioner is that he was appointed as Plot Watcher in the year 1993. He was working in this Post in various ranges up to the year 2008. The petitioner was terminated from service. Hence, the petitioner raised an industrial dispute in I.D.No.2 of 2013, before the Principal Labour Court, Vellore. The Labour



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Court through award dated 13.03.2014, directed the reinstatement of the petitioner into service with continuity of service from 01.04.2004 and also directed the Forest Department to pay back-wages to the petitioner.

3.The above award was challenged before this Court by the respondents in W.P.No.8362 of 2021. By the time, this writ petition came up for final hearing, through proceedings dated 22.04.2021, the petitioner was engaged as a daily Coolie as a temporary arrangement.

4.When the writ petition came up for final hearing on 02.09.2021, it was informed to this Court that the award passed by the Labour Court has been complied with and the petitioner has been reinstated into service through proceedings dated 22.04.2021. Recording the same, this Court disposed of the writ petition and granted liberty to the petitioner to workout his remedy independently with respect to the claim over back-wages.

5.The petitioner filed W.P.No.44040 of 2016, for a direction to the respondents to reinstate the petitioner as the Plot Watcher and to pay all the monetary benefits and to confer the service benefits pursuant to the Order passed by the Labour Court. This writ petition was disposed of by an order dated 19.12.2019, by directing the 2<sup>nd</sup> respondent herein to consider the representation made by the petitioner in the light of the award passed by the Tribunal. The



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communication dated 22.04.2021, which has been referred supra as a consequence of this Order passed in the writ petition on 19.12.2019.

6.The grievance of the petitioner is that the petitioner was engaged as a daily wager till August 2023 and thereafter, he was stopped from performing his job. It is under these circumstances, the present writ petition has been filed before this Court seeking for appropriate directions to the respondents.

7.The 4<sup>th</sup> respondent has filed a counter. The 4<sup>th</sup> respondent has taken a stand that the petitioner is not entitled for the relief sought for by him since one of the earlier writ petition filed by the petitioner in W.P.No.20734 of 2012, directing the respondents to include his name in the State-wise seniority list was dismissed by this Court by order dated 16.06.2016. It is contended that the petitioner was not considered to be in regular service and therefore, his name was not included in the seniority list.

8.A further claim has been made in the counter that the provisions of the Industrial Disputes Act, 1947 will not apply to the Forest Department. To substantiate this claim, an order passed in W.P.No.15244 of 2011, dated 12.11.2019, has been relied upon.



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9.The 4<sup>th</sup> respondent has also further stated in the counter affidavit that the petitioner was appointed as a Plot Watcher through the proceedings dated 22.04.2021 on a temporary daily wage basis. This was brought to the notice of this Court during the pendency of the writ petition in W.P.No.8362 of 2021 and this was taken to be reinstatement of the petitioner into service. The petitioner was continued to be engaged on a daily wage basis from August 2021 onwards and from October 2022, the petitioner stopped attending work. The wages that are to be paid to the petitioner was also paid till the last date on which the petitioner attended work. In view of the same, the respondents have taken a stand that the relief sought for by the petitioner is not sustainable and that the present writ petition is liable to be dismissed by this Court.

10.Heard Mr.R.Jothimanian, learned counsel for petitioner and Mr.C.Selvaraj, learned Additional Government Pleader for respondents.

11.This is a case where the petitioner inspite of getting a substantial relief before the Labour Court in ID.No.2 of 2013 by award dated 13.03.2024, did not get the actual benefits out of the award due to various developments that took place during the interregnum.

12.In the first instance, the award passed by the Tribunal in ID No.2 of 2013 dated 13.03.2014 must be taken into consideration. This industrial dispute was



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raised by the petitioner on the ground that he was terminated from service even though he served as a Plot Watcher for the period from 01.09.1993 to 01.04.2008 without break. This industrial dispute was hotly contested by the official respondents. After analysing the entire evidence, the Labour Court passed the award and the relevant portions are extracted hereunder:

*12.Since the petitioner had been at the service of respondent quite a long period though not continuously, the claim for permanency can be considered by the respondent in the special context that he had fulfilled the requirements of Sec.3 of Tamil Nadu Industrial Establishment (Confirmation of Permanent Status to Workmen), 1981, by being in continuous service from 01.01.2004 to 30.02.2006. The counsel for the petitioner continuous service from 01.01.2004 to 30.02.2006. The counsel for the petitioner cited a decision reported in 1997 (3) LLN 544 in support his contention. The said judgment it is held as follows:*

*A fair reading of the provisions of the conferment of Permanent status Act clearly shows that S.3 of the Act is mandatory in nature and once the statutory conditions prescribed under S.3 are fulfilled, the workman concerned acquires an automatic right of being conferred the permanent status. Further, the third respondent is a Government organisation and it has been repeatedly held that the Government organisations should be held model employers for other private organisations to follow.*



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*The above said duly bestowed upon the government by the High Court, in the above said case is applicable to the case in hand also. Though the petitioner's earlier service are not considered by the respondent for the reason that he was not in continues service for ten years in terms of the Government Order, the petitioner has proved that he is in continuous service for 30 months from 01.01.2004. The said fact should have been considered by the respondent. But the respondent had chosen to terminate the petitioner on 01.04.2008. Since the petitioner had fulfilled Sec.3 of Tamil Nadu Industrial Establishment (Confirmation of Permanent Status to Workmen), 1981, the termination of the petitioner is found to be illegal and the claim of the petitioner for reinstating him into service and confirmation and permanent status is found to be reasonable. Hence the petitioner is entitled to get hi,self of reinstatement into the service of the respondent and get himself included in the list of seniority maintained by the respondent and also for regularisation with effect from 1.4.2004 atleast.*

*13.As the petitioner had knocked the doors of the court immediately after his termination by way of filing the writ petition and also by raising dispute before the Labour Officer, his claim for back-wages can also be considered positively. Hence, I am inclined to grant back-wages as claimed by the petitioner along with reinstatement into service with continuity of service from 01.04.2004 and thus issues 1 and 2 are answered accordingly.*



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13.It is clear from the above that the Labour Court has considered the claim of the petitioner even from the stand point of view of the Tamil Nadu Industrial Establishment [Confirmation of Permanent Status to Workmen) Act 1981. The Labour Court has found that the petitioner was in continuous service from 01.01.2004 until he was terminated on 01.04.2008. Therefore, the Labour Court ordered for regularization of the petitioner with effect from 01.04.2004. The Labour Court also directed the petitioner to be reinstated into service and also granted back- wages to the petitioner. This award substantially covers the right that accrued in favour of the petitioner in terms of regularization, reinstatement and back-wages.

14.The entire confusion has taken place due to the subsequent developments. The award passed by the Tribunal was challenged by the Forest Department in WP.No.8362 of 2021 and it was pending. In the meantime, the petitioner filed WP.No.44040 of 2016, seeking for implementing the award passed by the Tribunal. This writ petition was disposed of by order dated 19.12.2019 and this Court directed the 2<sup>nd</sup> respondent herein to consider the representation made by the petitioner in the light of the award passed by the Labour Court.

15.The consequence of the above order was the proceedings dated 22.04.2021. For proper appreciation, the relevant portion in the proceedings dated 22.04.2021 is extracted hereunder:



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வேலுர் வனக்கோட்டத்தில் தினக்கூலி அடிப்படையில் தோட்டக்காவலராக பணிபுரிந்து வந்த திரு.ஆர்.கோவிந்தராஜ், து/பெ.இராமசாமி, ஏன்பவருக்கு பார்வை 2ல் காணும் மாண்புமிகு சென்னை உயர்நீதிமன்றத்தில் தொடர்ந்த தீர்ப்பில் வழங்கப்பட்ட தீர்ப்புக்கு உட்பட்டு வாணியம்பாடி சமீப காலங்களில் தினக்கூலி அடிப்படையில் காலமுறை ஊதியத்தில் தற்காலிக தோட்டக்காவலராக பணியமர்த்தப்படுகிறார்.

இந்த நியமன ஆணை சென்னை உயர்நீதிமன்ற ரிட் பெட்டிசன் எண்.44040/2016, தீர்ப்பு நாள்.19.12.2019-ன் மீது மேல்முறையீடு செய்யப்பட்ட வழக்கின் இறுதி ஆணைக்கு உட்பட்டு இந்த தற்காலிக பணி ஆணை வழங்கப்பட்டது.

16.It is clear from the above that the proceedings does not result in reinstatement of the petitioner pursuant to the award passed by the Tribunal. It was merely an interim arrangement made by the Forest Department to engage the petitioner on a temporary daily wage basis as a Plot Watcher subject to the result of the pending writ petition. By no stretch, the above proceedings dated 22.04.2021 can be considered to be in compliance of the award passed by the Tribunal.

17.When the writ petition in WP.No.8362 of 2021, came up for hearing on 02.09.2021, this Court ought to have been apprised of the fact that the proceedings dated 22.04.2021, does not effectively reinstate the petitioner into service as per the award of the Tribunal. However, an impression was given before this Court as if, the petitioner has been reinstated into service in compliance with the award passed by



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the Tribunal. For proper appreciation, paragraph nos. 2 and 3 of the order are extracted hereunder:

*2. Today, when the matter was called, the learned counsel for the respondent/workman submitted that pursuant to the orders of this Court passed on 19.12.2019 in W.P.No. 44040 of 2016, the award of the Labour Court has been complied with, through the petitioner's proceedings dated 22.04.2021, wherein the respondent was reinstated back into service.*

*3. As such, the impugned award has been considerably complied with and hence, no effective orders can be passed in the present writ petition. It is needless to point out that in case the respondent is not paid the back wages, as per the award of the Labour Court, it is always open to him to workout his remedies for claiming such wages in accordance with the provisions of the Industrial Disputes Act, 1947.*

18.The confusion was further confounded by filing yet another writ petition in W.P.No.1666 of 2022. In this writ petition, the writ petitioner has claimed a similar relief of regularization in service in terms of the award passed by the Labour Court. This writ petition was disposed of by an order dated 15.02.2022. The relevant portions of the order are extracted hereunder:

*3. The learned counsel for the petitioner has submitted that the petitioner was appointed as Plot Watcher by the 4 th respondent on 01.09.21993. The petitioner was orally terminated from service on*



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*01.04.2008, therefore the petitioner had approached the Labour Court, Vellore in I.D.No. 2 of 2013 and the same was allowed on 13.03.2014 with the directions to the respondents to reinstate him into service along*

*with continuity of service and full back wages and also to regularise his service from 01.04.2004. Since no action has been taken by the respondents, the petitioner has filed a writ petition in W.P.No. 44040 of 2014, this Court by order dated 19.12.2019 directed the respondents to consider the petitioner's claim as per the award passed by the Labour Court. Subsequently, the petitioner has filed contempt petition in Cont.P.No. 166 of 2021 before this Court.*

*4. The learned counsel for the petitioner has further submitted that after filing contempt petition, the petitioner was reinstated into service vide order dated 22.04.202. Further, the writ petition filed by the respondents as against the award of the Labour Court was also disposed of by this Court on 02.09.2021, therefore, the respondents ought to have taken steps to implement the order of the Labour Court dated 13.03.2014.*

*5. On the other hand, the learned Special Government Pleader has submitted that pursuant to the impugned order passed by the Labour Court, the respondent-department has reinstated the petitioner into service and the said fact was also placed before this Court in Contempt Petition No.166 of 2021 at the time of hearing.*

*6. Now the grievance of the petitioner is that he has not been paid back wages from October'2021 to till date as per the orders passed by the Labour Court.*

*7. The learned Special Government Pleader has submitted that insofar as payment of salary is concerned, the respondent-department has taken steps to pay the salary to the petitioner from the month of*



*October 2021 and the same will be paid to the petitioner within a short period of time. Insofar as back wages is concerned, it is for the petitioner to work out his remedy before the appropriate Court.*

*8. In view of the aforesaid submissions made by the learned Special Government Pleader, the respondent-department is directed to pay the arrears of salary to the petitioner from the month of October 2021 to till date, within a period of four weeks from the date of receipt of a copy of this order and if entitled, continue to pay the salary to the petitioner.*

19.It is quite unfortunate that even when the above writ petition was disposed of, both sides failed in their duty in not bringing to the attention of this Court that the proceedings dated 22.04.2021, was a temporary arrangement and it is not an order resulting in reinstatement of the petitioner into service. Once again this Court was given an impression that the petitioner has been reinstated into service. Therefore, this Court recorded the same and confined the scope of the writ petition only to the payment of back-wages. This Court directed the department to pay the arrears of back-wages from the month of October 2021 till date within a period of four weeks.

20.The above writ petition gave sufficient opportunity to the petitioner to agitate the grievance regarding the regularization and reinstatement into service.



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Unfortunately, there was no such projection made before this Court and as a result, this Court did not have any opportunity to go into the crux of the issue.

21.At last, the present writ petition has been filed before this Court seeking for the relief of regularization of service with time scale of pay and to permit the petitioner to work as a Plot Watcher. Even here, the petitioner is attempting to get back into work by relying upon the proceedings dated 22.04.2021. It must be made clear that the proceedings dated 22.04.2021, is a temporary measure whereby the petitioner was engaged as a Plot Watcher purely on temporary daily wage basis till a final result is reached in the pending writ petition filed against the award passed by the Labour Court. This proceedings dated 22.04.2021 has virtually misdirected everyone till date and has given an impression atleast on two earlier occasions as if, the petitioner has been reinstated into service in compliance with the award passed by the Labour Court. Whereas, the proceedings dated 22.04.2021 is not in compliance with the award passed by the Labour Court. Therefore, this proceedings cannot have the effect of reinstating the petitioner on a regular basis in compliance with the award of the Labour Court.

22.It is quite unfortunate that the respondents are now trying to avoid the award passed by the Tribunal by relying upon some order passed in a writ petition in the year 2019 in WP.No.15244 of 2011. The respondents cannot avoid the award



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passed by the Tribunal and it is binding on the respondents. The award passed by the Tribunal will bind all parties and it has the effect of an order in personam. This award must reach its logical conclusion and no one can be allowed to defeat the purport of the award by making some temporary arrangement.

23.In the light of the above discussion, this Court holds that the award passed by the Tribunal in I.D.No.2 of 2013, dated 13.03.2014 has not been interfered by this Court in WP.No.8362 of 2021. This Court has merely recorded that the petitioner has been reinstated into service. This will only mean that the petitioner's services has been regularized and he has been taken back into service. Insofar as back-wages are concerned, opportunity was given to the petitioner to independently workout his remedy. This factual position must have been brought to the notice of this Court when the earlier writ petition was disposed of in WP.No.1666 of 2022, by an order dated 15.02.2022. Unfortunately, it was not done. The mistake on the part of the learned counsel and the Court should not work to the prejudice of the petitioner. The petitioner must get what is due to him under the award passed by the Labour Court. That cannot be defeated by taking some technical objections.

24.In the result, there shall be a direction to the 2<sup>nd</sup> respondent to immediately take steps to regularize the service of the petitioner in the post of Plot Watcher in line with the award passed in ID.No.2 of 2013, dated 13.03.2014 with effect from 01.04.2004. Consequently, the seniority of the petitioner shall be fixed and all attendant service and monetary benefits shall also be granted to the



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petitioner. This process shall be completed by the 2<sup>nd</sup> respondent within a period of **eight weeks** from the date of receipt of copy of the order.

25. This writ petition is accordingly allowed with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

27.08.2024

Index : Yes/No  
Neutral Citation : Yes/No  
Speaking Order : Yes /No  
KP

To

- 1.Principal Secretary to Government  
State of Tamil Nadu  
Department of Environment  
Forests and Climate Change  
Forest St.George  
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- 2.The Principal Chief Conservator of Forests  
Head of Forest Force  
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**N.ANAND VENKATESH. J.,**  
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