



WP.No.27239 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 11.01.2024

Coram:

THE HONOURABLE MRS.JUSTICE N.MALA

WP.No.27239 of 2019

and

WMP.No.26647 of 2019

1.S.Sahul Ameen
2.R.Ganesan
3.P.Nagaraj
4.R.Marudhan
5.M.Ayyasamy
6.Hamsaveni
7.A.Sundarammal

...Petitioners

Vs.

1. The District Forest Officer,
Tiruppur Division,
Anaimalai, Udumalpet.

2. The Deputy Director of
Anaimalai Tiger Reserve,
Udumalpet 642 126.

...Respondents

Writ Petition is filed under Article 226 of the Constitution of India
praying to issue writ of Certiorarified Mandamus, Calling for the

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concerned records from Principal Labour Court, Coimbatore, quash the common order of the Principal Labour Court Coimbatore in C.P.No. 218, 217, 219, 220, 222, 223 and 226 of 2013 as illegal, arbitrary and contrary to law and consequently direct the Respondents to pay the back wages to the Petitioner No. 1 to 5 for the period from 27.11.2007 to 24.12.2012, to pay back wages in respect of the Petitioner No 6 for the Period from 27.11.2007 to 30.05.2010 being the date of the death of her husband and pay the back wages to the Petitioner No. 7 for the period from 27.11.2007 to 24.12.2011 being the date of death of her husband.

For Petitioners : Mr. Balan Haridas

For Respondents : Mrs. Mythrayee Chandru,
Special Government Pleader

ORDER

Writ petition is filed for a writ of Certiorarified Mandamus calling for the records of common order of the Principal Labour Court, Coimbatore in C.P.Nos.218, 217, 219, 220, 222, 223 and 226 of 2013 to quash the same and further direct the respondents to pay backwages to the petitioners 1 to 5 for the period from 27.11.2007 to 24.12.2012, to pay back wages in respect of the 6th petitioner for the period from 27.11.2007 to 30.05.2010 being the date

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of death of her husband and pay the backwages to the 7th petitioner for the period from 27.11.2007 to 24.12.2011 being the date of death of her husband.

2. The case of the petitioners' is that the petitioners' 1 to 5 were working as a Plot Watchers under the respondents. As the respondent in spite of Government order revising the wages had not paid the revised wages to the petitioners' 1 to 5 and the husbands of petitioner's 6 & 7, they initiated proceedings for minimum wages. Since the petitioners' agitated their right to minimum wages, the respondent terminated the services of the petitioners' on 01.05.2002. The petitioners 1 to 5 along with husbands of the petitioners' 6 and 7 raised industrial dispute challenging the illegal termination. The disputes were adjudicated and an order was passed on 27.11.2007 directing the respondents to reinstate the petitioners' 1 to 5 and the husband of the petitioner 6 and 7 with 25% backwages, continuity of service and all other attendant benefits. The respondents did not reinstate the petitioners' and also failed to pay backwages. The petitioners' therefore

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took steps to recover the backwages and to prosecute the management for violating the order. It was only thereafter the respondents reinstated the petitioners' 1 to 5 on 24.12.2012. According to the petitioners', they were entitled to backwages from 01.05.2002 to 24.12.2012 (From the date of termination till the date of reinstatement). However, the respondents paid backwages at the rate of 25% only for the period from 01.05.2002 to 26.11.2007 being the date of the Award. The petitioners' therefore claimed full backwages for the period from 27.11.2007 to 24.12.2012. Though the petitioners' were all ready and also willing to join work and also requested the respondents to implement the Award, the respondents reinstated the petitioners' only on 24.12.2012. As the husband of the petitioners' 6 and 7 died on 30.05.2010 and 24.12.2011, they claimed wages from 27.11.2007 to 30.05.2010 and 27.11.2007 to 24.12.2011 respectively. As the respondents failed to pay the backwages for the period from 27.11.2007 to 30.05.2010 to the 6th respondent and 27.11.2007 to 24.12.2011 to the 7th respondent they filed computation petition before the Labour Court. The Labour Court dismissed the claim petitions. Aggrieved by the Award of the Labour

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Court, rejecting the claim petition, the petitioners' have filed the above writ petition.

3. The respondents filed counter stating that the petitioners' never sent letters to the respondents requesting for reinstatement and they were not entitled for backwages for the period from 27.11.2007 to 24.12.2012. The respondents admitted the delay in paying the 25% backwages as Awarded by the Labour Court. The respondent further justified the Award of the Labour Court stating that it was based on the principles of no work no pay.

4. The learned counsel for the petitioners' submitted that the respondents were bound to implement the Award and because of the failure of the respondents and the Government to implement the Award the petitioners' could not be penalised. The learned counsel submitted that the petitioners' were reinstated on 24.12.2012 and therefore they were entitled to full backwages from 27.11.2007 to 24.12.2012 i.e. date of the

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Award till the date of reinstatement.

5. The learned counsel for the respondents on the other hand contended that the petitioners' never requested the respondents for reinstatement and therefore the respondents should not be faulted for the delay in reinstatement. The learned counsel further submitted that as the petitioners' did not work during the relevant period, the Labour Court was justified in invoking the principles of no work no pay.

6. I have heard both the learned counsels and I have perused the entire materials placed on record.

7. The Labour Court has recorded that the petitioners' from the date of the Award tried their best to get the Award implemented. It is relevant to note that even the 25% backwages awarded by the Labour Court was paid on 07.05.2013 to the petitioner's after a lapse of 6 years. In my view,

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the Labour Court erred in applying the principles of no work no pay. This is not a case of the petitioner's not reporting for duty after the Award. It was the respondents who delayed the implementation of the Award citing administrative reasons. It is further seen that the petitioner's had taken several steps for implementing the Award and it was only after litigating for some time that the Award was implemented. The delay in implementing the Award is ascribable to the respondents only and therefore the petitioner's cannot be penalised. Therefore the petitioner's 1 to 5 are entitled to full backwages for the period from 27.11.2007 to 24.12.2012 and the 6th petitioner for the period from 27.11.2007 to 30.05.2010 and the 7th petitioner for the period from 27.11.2007 to 24.12.2011.

8. The learned Special Government Pleader states that the backwages payable to the petitioner's works out to Rs.16,18,111.40/-. The learned Special Government Pleader pleads for reasonable time to pay the backwages of Rs.16,18,111.40/- to the petitioner's.

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In view of the submission made by the learned Special Government Pleader, twelve (12) weeks time from the date of receipt of a copy of this order is granted for settling the backwages to the petitioner's. The writ petition is accordingly allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

11.01.2024

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

To

1. The District Forest Officer,
Tiruppur Division,
Anaimalai, Udumalpet.

2. The Deputy Director of
Anamalai Tiger Reserve,
Udumalpet 642 126.

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N.MALA, J.

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