



WP(MD)No.1579 of 2012

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 28.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

WP(MD)No.1579 of 2012
and
MP(MD)No.1 of 2012

Assistant Engineer,
Vaigai Micro Hydel Power Station,
Tamil Nadu Electricity Board,
Vaigai Dam,
Theni District.

: Petitioner

Vs.

1.V.Thangammal

2.The Presiding Officer,
Labour Court,
Madurai.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorari calling for the records relating to the order passed by the Labour Court, Madurai, in I.D.No.05 of 2003, dated 25.06.2009 and quash the same.



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For Petitioner : Ms.Jothimani
for M/s.T.S.Gopalan & Co.,

For Respondents : Mr.V.Thirumal for R.1

ORDER

This writ petition is filed as against the award passed by the Labour Court in I.D.No.05 of 2003, dated 25.06.2009, in and by which, the Labour Court has allowed the dispute raised by the first respondent / workman and directed the petitioner to reinstate the first respondent in service.

2.The case of the first respondent / workman in the industrial dispute is that she was working in the petitioner Board continuously from 20.11.1991 to 26.05.1999 as a Sanitary Worker and she was paid a monthly salary of Rs.750/-. While so, she was terminated on 27.05.1999, without any notice or enquiry. Therefore, she filed a conciliation petition before the Labour Officer, however, no settlement was arrived. Thereafter, the industrial dispute was raised.



3. When the writ petition came up for hearing today, learned Counsel for the petitioner sought for an adjournment. However, the learned Counsel for the first respondent has raised objections and submitted that the petitioner is dragging on the proceedings by one way or the other for the past twelve years. Considering the fact that the writ petition is pending since 2012, this Court directed the petitioner's Counsel to get along with the case.

4. The main contention of the writ petitioner, raised in the grounds of affidavit, is that the Board is not supposed to recruit any employee without following the due process of law. Moreover, if any certificate is issued by any of the Officers of the TANGEDCO, it lacks any value, inasmuch as they are not the Officers authorized by TANGEDCO to issue any kind of certificates to the first respondent. The petitioner has also taken a ground that the first respondent was only a contract employee.

5. Learned Counsel appearing for the first respondent submitted that the first respondent / workman worked as Sanitary Worker from



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20.11.1991 to 26.05.1999 in the Vaigai Micro Hydel Power Station, Tamil Nadu Electricity Board, Vaigai Dam, Theni District, and she was provided with a salary of Rs.750/- per month. The petitioner has also provided working certificates to the first respondent for the period from 20.11.1991 to 05.06.1994 and the same was marked as Ex.W6 before the Labour Court; for the period from 06.06.1994 to 31.03.1997 and the same was marked as Ex.W7 before the Labour Court; and for the period from 07.05.1998 to 30.03.1999 and the same was marked as Ex.W8 before the Labour Court. Therefore, according to him, the first respondent has worked continuously for 480 days in 24 calendar months as on 05.08.1998 and therefore, the first respondent is entitled for reinstatement and also for regularization.

6.He has also pointed out that similarly placed co-employees, namely, one Pethanan S/o.Perumal, Sivanandi S/o.Mayandi, Perumal S/o.Kalimuthu, Thangapandi S/o.Seenithevar, Amavasi S/o.Pandi, were permanently absorbed by the petitioner Board. While so, non-extending of such benefits to the first respondent would amount to violation of Articles 14 & 16 of the Constitution of India.



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7.Learned Counsel for the first respondent has also projected the manner in which this writ petition is being dragged on for the past twelve years.

8.This Court considered the rival submissions made on either side and perused the materials placed on record.

9.As against an award of the year 2009, the petitioner Board preferred this writ petition in the year 2012. However, it was dismissed for default on 08.10.2012. The writ petition has to be restored and a restoration petition (I) has to be filed. There was a delay of 400 days in filing the restoration petition (I). Therefore, a condone delay application (II) was filed in MP(MD)No.SR78795 of 2013 in WP(MD)No.1579 of 2012. For some defects, that application was returned and it has to be re-presented. There was a delay of 305 days in re-presenting this condone delay application. Therefore, another miscellaneous petition (III) was filed in MP(MD)No.1 of 2015 to condone the delay in re-presenting MP(MD)No.SR78795 of 2013.



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However, this miscellaneous petition (III) was dismissed for default on 04.10.2018. In order to restore this miscellaneous petition, a restoration petition (IV) has to be filed. However, there was a delay of 845 days in filing the restoration petition. Therefore, WMP(MD)No.3225 of 2023 (V) was filed to condone this delay and it was allowed on 22.02.2023. Thereafter, WMP(MD)No.4348 of 2023 / restoration petition (IV) was allowed on 03.03.2023 and as such, MP(MD)No.1 of 2015 (III) came to live. This miscellaneous petition was allowed on 08.03.2023 and the condone delay application (II) was numbered as WMP(MD)No.5392 of 2023. It was allowed on 17.03.2023 and the restoration petition (I) in WMP(MD)No.5871 of 2023 was allowed on 20.03.2023. As such, the writ petition, which was allowed to be dismissed for default in the year 2012, was restored back to the file in the year 2023, nearly after eleven years.

10.It is a very sorry state of affairs that the writ petitioner, affiliated to TANGEDCO, a mighty organization, has dragged on the proceedings for nearly twelve years as against a Sanitary Worker. Even today, a request for adjournment was sought on the side of the petitioner.



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11.The documents Ex.W6 to Ex.W8 marked on the side of the first respondent reveal that work certificates were issued by the petitioner to the first respondent that she was working in the petitioner organization from 20.11.1991 to 30.03.1999. Therefore, admittedly, the first respondent has worked in the petitioner organization for more than 480 days in 24 calendar months as on 05.08.1998.

12.It is also the case of the first respondent that her co-employees, namely, Pethanan, Sivanandi, Perumal, Thangapandi and Amavasi were regularized by the petitioner Board.

13.A stand has been taken by the petitioner Board before the Labour Court that those employees have completed 480 days as on 05.08.1998 and therefore, they have been regularized, however, the petitioner was not qualified as on that date. The certificates issued by the petitioner disclose that the first respondent had also completed 480 days as on 05.08.1998.



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14. For the foregoing discussions, this Court is not inclined to entertain this writ petition and the same is accordingly, dismissed. The benefits, if any due, has to be paid to the first respondent with interest @ 8% pa.

15. Considering the manner in which the writ petition has been dragged on for the past twelve years as against a poor workman, this Court is imposing a cost of Rs.25,000/- [Rupees Twenty Five Thousand only] payable by the petitioner to the first respondent. Consequently, connected miscellaneous petition is closed.

Internet : Yes
Index : Yes / No
NCC : Yes / No

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