



W.P.Nos.3597 & 3588 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2025

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.Nos.3597 & 3588 of 2019

and

W.M.P.Nos.3943 and 3935 of 2019

The Executive Engineer,
Tamilnadu Water and Drainage Board,
Maintenance Division,
134, Souther Transport Buildings,
Namakkal – 1.

... Petitioners in both W.P.'s

Vs.

K.Manivel
C.Kandasamy

... Respondent in W.P.No.3597 of 2019
... Respondent in W.P.No.3588 of 2019

Common Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari calling for the entire records in I.D.Nos.35 and 36 of 2013 on the file of Presiding Officer Labour Court, Salem and quash the impugned award dated 21.03.2018.

In both W.P.'s:

For Petitioner : Mr.S.Ravindran,
Sr.Counsel for
M/s.S.Mekhala

For Respondent : Mr.M.Muthupandian

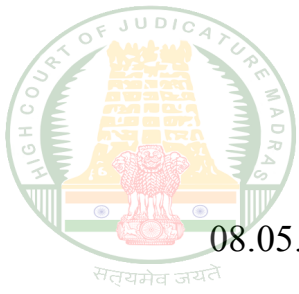


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COMMON ORDER

WEB COPY Since the issue involved in the above writ petitions are one and the same, they are disposed of by way of this common order.

2. The case of the petitioner is that, the respective respondents were employed as contract labourers in the petitioner / board along with 13 other contract labourers. Seeking to regularise them, they filed a petition before the Deputy Chief Inspector of Factories which was allowed in favour of the workmen. Being aggrieved over the same, the petitioner / management preferred a writ petition before this Court which was also dismissed on 23.02.2011. Aggrieved over the same, the petitioner management preferred a writ appeal before this Court. In the meantime, the respective respondents have filed claim petition in C.P.Nos.18 and 26 of 2011. However, the same was rejected vide order dated 05.06.2014, with a direction to the petitioner / management to pay backwages to the tune of Rs.1,97,195/- to the workmen, which is subject to the outcome of the writ appeal. In the mean while, the writ appeal was dismissed on 15.12.2014. Against which, the petitioner management has preferred the Special Leave Petition before the Hon'ble Apex Court in S.L.P.No.13562 of 2015 which was also dismissed vide order dated



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08.05.2015. Challenging the same, the petitioner has filed a Review Petition in Review petition No.3734 of 2015 and the same was dismissed on 20.01.2016 and subsequently curative petition No.490 of 2016 was also dismissed on 12.01.2017. Thereafter, the respondents workmen have filed an industrial dispute before the Labour Court, Salem in I.D.Nos.35 & 36 of 2013 wherein the Labour Court vide award dated 21.03.2018 has ordered for reinstatement of the respondents with continuity of services from 22.07.2012 after conducting detailed enquiry and ordered for payment of backwages from 24.11.2009. Aggrieved by the same, the petitioner / management has preferred these writ petitions.

3. The learned Senior counsel for the petitioner submitted that, the respondents claim that they were orally terminated by the petitioner management along with other labourers. In view of the alleged oral termination, the respondents / workmen raised an Industrial Dispute in I.D.Nos.35 & 36 of 2013, in which the Labour Court, after conducting detailed enquiry ordered for reinstatement along with backwages as against the petitioner by using unparliamentary words which may be expunged. Though, pursuant to the order passed by the Hon'ble Apex Court, the respondents were reinstated in service, however, they



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voluntarily abandoned their duty which cannot be put against the petitioner management. Accordingly, he prayed for passing appropriate orders.

4. Per contra the learned counsel for the respondents / workmen submits that admittedly, the petitioner claims that the respondents were reinstated as per the order passed by this Court as well as the Hon'ble Apex Court, however, there is no proof to show that the respondents were reinstated as labourers in the petitioner management. Though the respondents were continuously employed as labourers in the petitioner management for nearly 480 days, however, they were orally terminated by the petitioner management. Thereby, the respondent workmen have raised an industrial dispute in I.D.Nos.35 & 36 of 2013, wherein the Labour Court has passed the impugned order directing the petitioner / management to reinstate the respective respondents along with backwages. However the learned counsel for the respondents fairly conceded that while passing the impugned award dated 21.03.2018, though has rightly reinstated the respondents along with backwages, however, it has used unparliamentary / unethical words as against the petitioner management, which alone may be expunged by this Court.



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Insofar as the reinstatement is concerned the same does not require any interference.

5. Heard the learned counsel for the petitioner and the learned counsel appearing for the respective respondents and perused the materials placed on record.

6. Admittedly, the respondents are workmen employed as contract labourers in the petitioner management. Even after completion of 480 days, the labourers were not given permanent status, thereby, they filed a petition seeking regularization before the Deputy Chief Inspector of Factories, which was allowed vide order dated 24.11.2009, which was challenged before this Court and resulted in dismissal. Subsequently, the management has filed appeals before this Court as well as the Hon'ble Apex Court, wherein they lost their case in both the Courts. Subsequently, the respondents raised an industrial dispute in I.D.No.35 & 36 of 2013 wherein the Labour Court after conducting elaborate enquiry has set aside the retrenchment and ordered for reinstatement along with back wages vide order dated 22.07.2012, assailing which, the petitioner management has filed the above writ petitions.



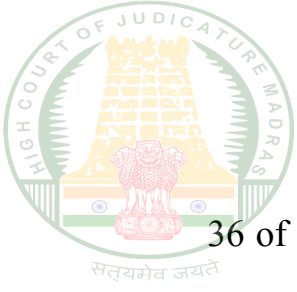
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7. It is pertinent to note that, the impugned passed by Labour Court contains certain unparliamentary words, which is bad in law in the opinion of this Court. Hence, such observation made by the Labour Court in I.D.No.35 & 36 of 2013 dated 22.07.2012 is hereby expunged.

8. Considering the period of service rendered by the respondents to the petitioner management and after careful consideration of rival submissions and the materials available on record, this Court is of the opinion that while the respective respondents are entitled to reinstatement along with continuity of service, the award of backwages is not justified, as the respondents failed to demonstrate any exceptional circumstances warranting the payment of backwages. Accordingly, the respective respondents are reinstated in service without any backwages and shall report for duty within a period of four (4) weeks from the date of receipt of copy of this order. If the petitioner management fails to adhere to the aforesaid direction, the petitioner management is directed to pay 25% backwages in favour of the respondents.

9. With the above direction, these writ petitions are allowed in part and the impugned order dated 21.03.2018 passed in I.D.Nos.35 and



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36 of 2013 is set aside only in respect of awarding of full backwages and

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the expungement of unparliamentary words are concerned. No costs.

Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation Case : Yes/No

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To

The Presiding Officer Labour Court, Salem



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M.DHANDAPANI, J.

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