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W.P.No.13155 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2025

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.13155 of 2020

And

W.M.P.No.16280 of 2020

- 1.The Commissioner,
Corporation of Chennai,
Ripon Buildings,
Chennai – 600 003.
- 2.The Zonal Officer,
Zone–III, New Zone – IV,
Corporation of Chennai,
Vyasarpadi,
Chennai – 600 081.

... Petitioners

Vs.

M.Murugan

... Respondent

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the orders on the file of the Presiding Officer, Labour Court, Chennai in I.D.No.355 of 2013 and quash the impugned order dated 26.08.2016 as highly illegal.

For Petitioners : M/s.P.T.Ramadevi
Standing Counsel

For Respondent : NRN



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ORDER

The petitioners have filed this writ petition seeking issuance of Writ of Certiorari to call for the orders on the file of the Presiding Officer, Labour Court, Chennai in I.D.No.355 of 2013 and quash the impugned order dated 26.08.2016 as highly illegal.

2.The case of the petitioners is that the respondent is said to have been sponsored by Employment Exchange for being engaged as Malaria Desilting Tholilali. The respondent / workman was engaged for conservancy work only for a period of 3 to 6 months and every year new persons were being sponsored by the Employment Exchange. Therefore, the workman could not serve continuously in the petitioner Corporation and seek for regularisation of service, by getting the benefits of G.O.(Ms).No.125, Municipal Administration and Water Supply Department dated 27.05.1999. The workman had approached the Labour Court after a period of 14 years for the relief of reinstatement and back wages with continuity of service. However, the Labour Court has granted the relief of reinstatement in favour of the workman without any backwages based on the G.O.(Ms).No.125 dated 27.05.1999 which is not justifiable as the workman was not working



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continuously except during the period of contract. Hence, the petitioner Corporation has filed the writ petition with the aforesaid prayer.

3. The learned Standing Counsel appearing for the petitioners submits that the writ petition has been filed by the petitioner Corporation on the ground that the Labour Court inadvertently without jurisdiction has extended the benefit of G.O.(Ms).No.125, Municipal Administration and Water Supply Department dated 27.05.1999 in favour of the respondent / workman. Such power is not available to the Labour Court. The Labour Court has to decide whether there is any illegal retrenchment in terms of Sections 25G and 25H of the Industrial Disputes Act, 1947 and whether there was an unfair labour practice adopted by the petitioner Corporation and whether the workman employed continuously for a period of 480 days in a two calendar years for entitlement of reinstatement and regularisation. Without discussing the said facts, the Labour Court mechanically arrived at a conclusion as if he is entitled for the relief of reinstatement as per G.O.(Ms)No.125 dated 27.05.1999 which was not available to him. The power available to regularise the contract employees in terms of



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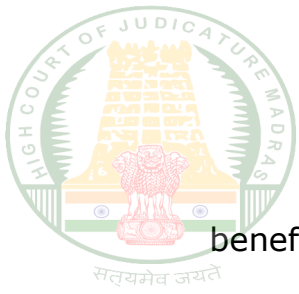
G.O.(Ms)No.125 is only vested with the Government and on the sole ground, the writ petition has been filed.

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4. Heard the learned counsel appearing for the petitioners. Though the case is of the year 2020, the petitioners have not taken effective steps to serve notice on the respondent. Considering the pendency of the writ petition, this Court is inclined to proceed with the case and decide the same based on the materials available on record.

5. The issue that arises in the writ petition is whether the Labour Court can extend the benefit of G.O.(Ms).No.125, Municipal Administration and Water Supply Department dated 27.05.1999 in favour of the workman.

6. Admittedly, the workman was engaged as temporary employee and engaged for certain period and he has not continuously employed in the petitioner Corporation. Therefore, the employment of the workman has not been regularised by the petitioner Corporation. However, the Labour Court overlooking the above facts, has granted the relief of reinstatement in favour of the workman by extending the



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benefits of the said G.O.(Ms)No.125 dated 27.05.1999. Therefore, this Court is inclined to dispose of the writ petitions with the following directions:

“(i) The impugned order passed by the Labour Court is set aside and the matter is remitted back to the Labour Court for fresh consideration;

(ii) While reconsidering the same, the Labour Court is directed to provide an opportunity of hearing to the workman and pass appropriate orders on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order;

(iii) The Labour Court shall decide the fact as to whether the workman was continuously employed for a period of 480 days in a two calender years; whether there was any unfair labour practice or not; and whether the workman is entitled for reinstatement de hors the original engagement is a temporary post of



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Malaria Desilting Tholilali including the point of limitation; and

(iv) The petitioner Corporation and the respondent / workman are directed to canvass all the points before the Labour Court.”

7. With the above observations and directions, this writ petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

21.04.2025

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

1.The Presiding Officer,
Labour Court,
Chennai.



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M.DHANDAPANI,J.
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