



W.P Nos.11890 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2025

CORAM

THE HONOURABLE MR. JUSTICE **P.DHANABAL**

W.P.Nos.11890 & 11891 of 2018

1.P.Karunakaran
2.P.Danapal
3.K.Selvaraj
4.R.Balasubramani
5.A.Kuppusamy
6.S.Thirumurugan
7.S.Venkatesan
8.E.P.Thirumoorthy
9.S.R.Govindasamy

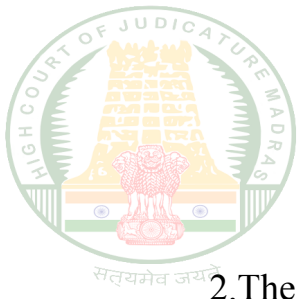
.. Petitioners
in W.P.No.11890 of 2018

J.K.K.Natarajah Dental College Employees Union
Represented by the President,
Valayakkaranur Post,
Kumarapalayam – 638 183,
Thiruchenkodu Taluk

... Petitioner
in W.P.No.11891 of 2018

Vs.

1.The Presiding Officer,
Labour Court,
Salem.



W.P Nos.11890 of 2018

2.The Management,
JKK Nataraja Dental Medical College Hospital,
Valayakkaranoor Post,
Komarapalayam, Thiruchengode Taluk,
Namakkal District.

.. Respondents
in both W.Ps

Prayer in W.P.No.11890 of 2018: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus after calling for the records of the order in Award dated 18.04.2017 in I.D.Nos.662/2004, 663/2004, 664/2004, 665/2004, 666/2004, 667/2004, 668/2004, 669/2004 and 670/2004 on the file of the first respondent Labour Court, Salem and quash the same and consequently direct the second respondent JKK Nataraja Dental Medical College and Hospital to reinstate the petitioners with full backwages, continuity of services and all other statutory benefits.

Prayer in W.P.No.11891 of 2018: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus after calling for the records in Award dated 18.04.2017 in ID.No.225 of 2006 on the file of the first respondent Labour Court, Salem and quash the same and consequently direct the second respondent JKK Natarajah Dental Medical College and Hospital to regularize the services of the employees in W.P.No.11890 of 2018 with full back wages, continuity of services from date of joining and all other statutory benefits.

In both W.Ps

For Petitioners : Mr.D.Nagasaila



WEB COPY



W.P Nos.11890 of 2018

For Respondents : R1- Court
Mr.N.Manokaran for R2

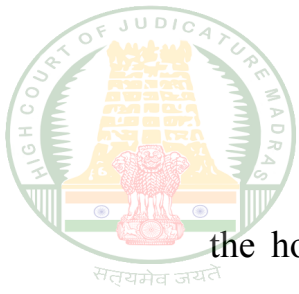
COMMON ORDER

W.P.No.11890 of 2018 has been filed by the workmen as against the order passed by the Labour Court, Salem in I.D.Nos.662/2004, 663/2004, 664/2004, 665/2004, 666/2004, 667/2004, 668/2004, 669/2004 and 670/2004 and quash the same.

2. W.P.No.11891 of 2018 has been filed by the Employees Union as against the order passed by the Labour Court, Salem in I.D.No.225 of 2006 and quash the same.

3. The short facts necessary to dispose of these Writ petitions are as follows:-

The petitioners in W.P.No.11890 of 2018 have raised an Industrial Dispute before the Labour Court, Salem, alleging that all the petitioners were employed as hospital assistants, and S.R.Govindswamy, the 9th petitioner, alleged that he worked as a hospital assistant and record clerk with the second respondent institution. They worked under the second respondent for more than 10 years under a consolidated salary. Their work is perennial in nature and is essential for the functioning of

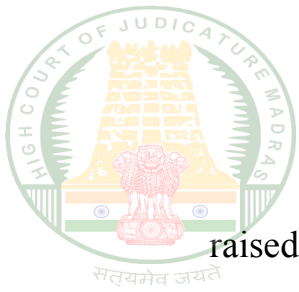


W.P Nos.11890 of 2018

the hospital. The petitioners were not paid wages as prescribe by the

WEB COPY

Minimum Wages Act, 1948 and they were on a fixed consolidated salary from the time of appointment. The petitioners did not have regular working hours and made to work for more than 11 hours in a day, but they were not given proper leave salary. Though they have been continuously working without any break, their services were not regularized. They made representations before the second respondent management, and no action was taken. On 28.02.2004, the petitioners sent a petition to the Labour Officer and Chief Minister of Tamil Nadu to regularize their service, fixation of fair wage and fixation of working hours etc. Thereafter, they filed a petition before the Labour Office, and the Labour Officer conducted an enquiry. At that time, they formed an association with JKK Nataraja Dental Medical College Hospital Employees Association dated 08.07.2004, and on the same day, the second respondent management orally dismissed one S.Thirumurugan, who was the Secretary of the Trade Union. Subsequently, all the petitioners were dismissed from services without any reason, notice or a written order of termination. The Management did not issue charge sheets, and no enquiry was conducted, and without following the procedures, they were terminated from services orally. Therefore, they

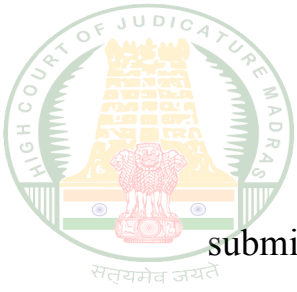


W.P Nos.11890 of 2018

raised an industrial dispute, and the management refused to participate in the conciliation proceedings, thereafter, they raised an industrial dispute before the Labour Court, Salem, to reinstate them with backwages, continuity of service and all other consequential benefits. The Labour Court, Salem dismissed the industrial dispute on the grounds that these petitioners were appointed as casual employees on consolidated pay. Therefore, their services cannot be regularized. However, the Labour Court passed an award of a sum of Rs.1,00,000/- each to the petitioners towards compensation. Now the same is challenged by the workmen through the writ petition No.11890 of 2018.

3.1. The Trade Union also raised industrial dispute for regularisation of the employees for the same work. The Labour Court dismissed the petition on the grounds that the workmen had not been employed continuously for more than 480 days in 24 months and the workmen were also not working there, and thereby dismissed the petition. Against which, the Union has preferred the Writ Petition W.P.No.11891 of 2018. Since both the writ petitions arise out of the same dispute, this Court heard them together and passed a common order.

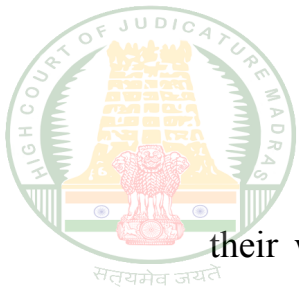
4. The learned counsel appearing for the writ petitioners would



W.P Nos.11890 of 2018

submit that these writ petitioners were appointed as casual employees on consolidated pay on various dates. However, their services have not been regularized, and they have not been properly paid as per the law. Further, they formed a union and also demanded proper wages and regularisation of their service. While so, without any valid reasons, serving notice or conducting a proper enquiry, they orally terminated the services of the petitioners, which is against law. Therefore, they raised an industrial dispute before the Labour Court. Before the Labour Court, they examined the witnesses and marked documents, but the Labour Court, without considering the evidence of the petitioners erroneously dismissed the industrial dispute by holding that these petitioners did not prove that they worked continuously for 480 days in 24 months. In fact, these petitioners continuously worked for more than 12 years, but the Labour Court, failed to consider the same and dismissed the dispute, awarding the meagre amount of Rs.1 lakhs as compensation. Therefore, the order passed by the Labour Court is liable to be set aside.

5. The learned counsel appearing for the second respondent management would submit that the petitioners were appointed as casual employees on consolidated pay. The petitioners voluntarily stopped from



W.P Nos.11890 of 2018

their work without any intimation. Since they have not appointed on regular basis, there is no possibility to terminate them orally. However, they have not continuously worked for 480 days in 24 months, and also they were engaged as casual labourers on a consolidated pay and thereby they are not entitled to what was prayed for in the industrial dispute. The Labour Court, after analysing all the oral and documentary evidence, correctly determined that they are not entitled for the regularisation of service, however it erroneously awarded a sum of Rs.1 lakh as compensation.

5.1. The writ petitioners in W.P.No.11890 of 2018 who are workmen, have not prayed for any regularisation of service, they only challenged the termination order in the writ petition. However, the union raised an industrial dispute in respect of regularisation. Since the petitioners were appointed as casual employees on a work basis and have not worked continuously for 480 days in 24 months, they are not entitled to regularisation. The Labour Court passed a well reasoned order, and the present writ petitioners are liable to be dismissed.

6. Heard both sides and perused the materials available on



W.P Nos.11890 of 2018

record.

WEB COPY

7. In this case, there is no dispute that these petitioners were appointed as casual labourers on consolidated pay. As far as regularisation is concerned, it is the duty of the petitioners to prove that they continuously worked for 480 days within 24 months prior to the request made by them. According to the petitioners, they were appointed as casual labourers and they worked for more than 12 years. However, there is no evidence produced to show that they continuously worked for 480 days in 24 months. In order to consider the claim of the petitioners in respect of regularisation, they must prove that they continuously worked for 480 days in 24 months, but no records were produced by the petitioners. In this context, the Labour Court also dismissed the application for regularisation and correctly held that they failed to prove that they worked for 480 days in 24 months. Therefore, the order passed by the Labour Court regarding regularisation is in order, and there is no illegality or infirmity found in the order of the Labour Court. Therefore, the writ petition W.P.No.11891 of 2018 filed by the union for regularisation of service has no merits and deserves to be dismissed.



W.P Nos.11890 of 2018

8. As far as the oral termination of service of the petitioners is concerned, it is an admitted fact that they have been appointed as casual labourers and they worked under the 2nd respondent management. According to the petitioners, they were orally terminated by the management, but according to the management the workmen voluntarily absented themselves from duty, and thereby no termination order was passed. It is an admitted fact that these petitioners were appointed to duty for some periods, and these petitioners were also appointed as casual labourers, and their service have not been regularised. The Union also raised an industrial dispute to regularise them, and the same was also dismissed. Therefore, even assuming that they were orally terminated they cannot be reinstated in service in this case, since their services were not regularised and failed to prove that they continuously worked for 480 days in 24 months. Therefore, the contention of the petitioners that they have not been given any notice and failed to followed the procedures under Section 25(FFF) of the industrial dispute is not acceptable one.

9. It is also admitted fact that some of the workers have also worked in other places, after their termination. Since these petitioners are temporary casual employees they cannot claim as a matter of right for



W.P Nos.11890 of 2018

reinstatement. Before the Labour Court, the petitioners examined WW1

and marked Exs.P.1 to P.16. On the side of the management they examined MW.1 & MW.2 and marked Ex.R.1 to R.11. This Court also perused all the records. On careful perusal of the records, there is no evidence available to prove that these petitioners continuously worked for 480 days in 24 months to substantiate the claim for reinstatement. In this context, the Labour Court also after careful examination of all the witnesses, considered that they worked for more than 13 years as casual labourers employees and awarded a sum of Rs.1 lakh towards compensation to each of the petitioners. This Court, considering the long pendency of the dispute and considering the facts and circumstances of the case that all the petitioners worked for 13 years in the respondent institution, finds it appropriate to increase the compensation awarded by the Labour Court. Accordingly, the compensation awarded by the Labour Court is hereby increased from Rs.1 lakh to Rs.2 lakhs. Therefore, in view of the above, this writ petition, W.P.No.11890 of 2018, is partly allowed.

10. In the result, WP.No.11890 of 2018, it is partly allowed and the second respondent is directed to pay a sum of Rs.2 lakhs each to



W.P Nos.11890 of 2018

the petitioners within one month from the date of receipt of a copy of this order, after deducting the payments if any, already made by the second respondent. In view of the order passed in W.P.No.11890 of 2018, this W.P.No.11891 of 2018 is dismissed. No costs.

09.01.2025

Index: Yes/No.
Internet/Yes/No

drl



W.P Nos.11890 of 2018

WEB COPY

- To
1. The Presiding Officer,
Labour Court,
Salem.
 2. The Management,
JKK Nataraja Dental Medical College Hospital,
Valayakkaranoor Post,
Komarapalayam, Thiruchengode Taluk,
Namakkal District.

P.DHANABAL.J.



WEB COPY



W.P Nos.11890 of 2018

drl

W.P.Nos.11890 & 11891 of 2018

09.01.2025