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W.P.No.20564 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.04.2025

CORAM :

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.20564 of 2014

and

M.P.No.1 of 2014

The Commissioner,
Cheiyyar Panchayat Union,
Thiruvannamalai District.

...Petitioner

Vs.

1. S.Mahalingam
2. Divisional Forest Officer,
Thiruvannamalai.
3. The Conservator of Forest,
Fort, Vellore – 632 004.
4. The Presiding Officer,
Principal Labour Court, Vellore.

...Respondents

Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorari calling for the records pertaining to the order dated 16.09.2013 made in I.D.No.49 of 2012 on the file of the Principal Labour Court, Vellore, quash the same.



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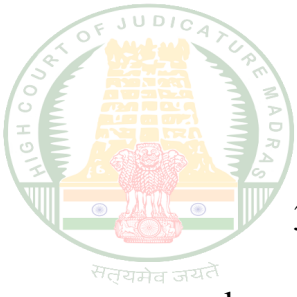
For Petitioner : Mr.P.Muthukumar, AAG
Assisted by M/s.Madonna Akashni

For Respondents : No appearance, for R1
: Mr.M.Murali, GA, for R2 & R3
: R4 – Labour Court

ORDER

This Writ petition has been filed seeking quashment of the order dated 16.09.2013 made in I.D.No.49 of 2012 on the file of the Principal Labour Court, Vellore.

2. The case of the petitioner is that the 1st respondent was engaged as Helper in the office of the 2nd and 3rd respondents since May, 1982 and later he was transferred to the office of the petitioner on deputation as per G.O.No.592 dated 16.08.1989 and was employed there till 31.10.1996. While so, alleging that, he was illegally terminated from service all of a sudden without following any rules, the 1st respondent raised the present dispute in I.D.No.49 of 2012 and the Labour court, vide impugned award dated 16.09.2013 ordered reinstatement of the 1st respondent with continuity of service, backwages and all other attendant benefits. Challenging the same, the present writ petition has been filed.



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3. This Court gave its careful consideration to the submissions advanced by the learned counsel on either side and perused the materials available on record.

4. Though notice was served and Mr.V.Jeevagiridharan, learned counsel entered appearance on behalf of the 1st respondent, however, when the matter was taken up, there was no representation on behalf of the 1st respondent. Considering the period of pendency of this Writ petition, this Court is inclined to dispose of the same based on the available materials.

5. On a perusal of the material documents placed on record particularly the impugned order it is seen that, initially the 1st respondent raised a dispute as against the 2nd and 3rd respondents seeking regularisation of his services in I.D.No.267 of 2010 before the Principal Labour Court, Vellore and the same was rejected by the Labour court holding that the initial appointing authority of the 1st respondent was the Divisional Forest Officer, Social Forest Division, Vellore and that the 1st respondent was not appointed by the 2nd and 3rd respondents. It is on this very point, the earlier industrial dispute raised by



the 1st respondent was dismissed, since the appointing authority namely, the Divisional Forest Officer, Social Forest Division, Vellore was not made party in the said dispute and therefore, no relief could be granted and no positive order could be passed. Thereafter, the 1st respondent raised the present dispute in I.D.No.49 of 2012 by impleading the petitioner herein. Before the labour court, the management side witness has accepted that the 1st respondent was in employment in another department of the Government without any break and that therefore, he was an employee of the petitioner and the Social Forestry Division, Vellore.

6. Though the petitioner has taken a stand that the 1st respondent/workman joined its office only on deputation, the fact remains that his salary till the date of his termination was paid only by the petitioner. For the sake of arguments, even if it is admitted that the 1st respondent had indeed joined the office of the petitioner on deputation, since he was only deputed, his salary should have been paid by his parent department. However, neither the 2nd and 3rd respondents nor the Divisional Forest Officer, Social Forest Division, Vellore had paid the salary of the 1st respondent. Even as per the admission of



the petitioner, it was the petitioner who paid salary to the 1st respondent/workman. This shows that the 1st respondent/workman was not sent on deputation to the office of the petitioner; rather he was only an employee of the petitioner.

7. Likewise, the petitioner has failed to produce any document showing that the 1st respondent was employed as a temporary worker. Most importantly, in the written statement of the petitioner management, they have categorically admitted that they could not even ascertain from the records of their office as to why the 1st respondent was terminated from service. This very fact proves that the termination of the 1st respondent is blatantly illegal.

8. Having extracted work from the 1st respondent for almost fifteen (15) years under the petitioner and the Divisional Forest Officer, Social Forest Division, it is not fair on the part of the Government to have sent out the 1st respondent/workman without any cause. The fact that the 1st respondent was sent on deputation by passing a Government order should invoke *res ipsa loquitur* that is, the Government was aware of the

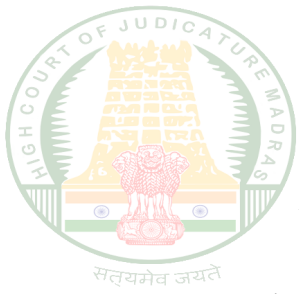


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employment of the 1st respondent with the Divisional Forest Officer, Social Forest Division, Vellore, for a considerable point of time.

9. From the facts and discussions made above, it is clear that the 1st respondent was in continuous service only with the Divisional Forest Officer, Social Forest Division, Vellore for about eight (8) years and later served the petitioner for another seven (7) years. Further, the petitioner had miserably failed to establish that the 1st respondent was gainfully employed during the non-employment period. Thereby, the Labour court, taking into consideration the above factors, had directed reinstatement of the 1st respondent with continuity of service, backwages and all other attendant benefits and this Court is not inclined to interfere with the said well reasoned order of the labour court and the same is confirmed.

10. At the time of admission of this Writ petition, this Court had granted interim stay on 04.08.2014 in MP.No.1 of 2014. In view of the above order being passed in this writ petition, the said Miscellaneous petition stands dismissed.



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11. With the above observations and directions, this Writ Petition stands dismissed and the petitioner is directed to honour the impugned award of the Principal Labour Court, Vellore made in I.D.No.49 of 2012 dated 16.09.2013 within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected Miscellaneous petition is dismissed, for the reasons aforesaid.

07.04.2025

skt

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

To:

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Thiruvannamalai District.
2. Divisional Forest Officer,
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M.DHANDAPANI, J.

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