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W.P.No.23657 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 22.04.2025**

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

**W.P.No.23657 of 2021**  
**and**  
**W.M.P.No.24906 of 2021**

The Management,  
Represented by the Executive Officer,  
Pennakaran Town Panchayath Office,  
Dharmapuri District – 636 810. ... Petitioner

Vs.

K.Saravanan ... Respondent

**Prayer** : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records in I.D.No.9 of 2017 order dated on 30<sup>th</sup> October 2019 by the Labour Court and quash the same.

For Petitioner : Mr.V.Jayaprakash Narayanan

For Respondent : Mr.V.Ajoy Khose

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**ORDER**

This Writ Petition has been filed by the petitioner seeking for issuance of a Writ of Certiorarified Mandamus, to call for the records in I.D.No.9 of 2017 order dated on 30.10.2019 by the Labour Court and



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quash the same.

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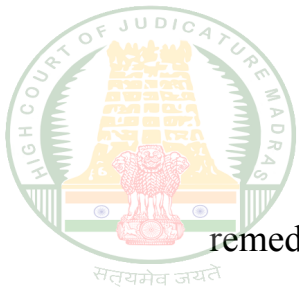
2. According to the respondent, he was appointed as an Operator on daily wage basis and he worked continuously till 08.01.2016 and he was incharge of maintaining the street lights and motor pumps in the jurisdiction of the petitioner. On 08.01.2016 at about 4.30 p.m., while the respondent was changing the electrical bulb on a lamp post at the height of 30 ft, unfortunately, he got electric shock and fell down from the street lamp post and sustained grievous injuries as his right hand lost its functional ability. In such circumstances, the respondent sought for alternate job, but there was no reply, which prompted the respondent to raise an industrial dispute u/s 2(A)(2) of the Industrial Disputes Act, 1947 (in short the 'ID Act') in I.D.No.9 of 2017 before the Labour Court, Salem. The petitioner management resisted the dispute, stating that the respondent was appointed on contractual basis for a period of one year, from 01.08.2015 to 31.08.2016 on a consolidated salary of Rs.5,100/- per month and he was not allotted the work of maintaining the street lamp posts, but he was allotted the work of maintaining the water supply alone and that he worked only for five months on contract basis and his service came to an end on completion of contract period of one year and thereby,



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he was not entitled to the relief sought for by him. The Labour Court, on consideration of both oral and documentary evidence adduced by both parties, passed award, dated 30.10.2019, directing the petitioner management to give alternate job to the petitioner from 09.07.2016 with back wages and all other attendant benefits. Challenging the same, the present writ petition has been filed.

3. Learned counsel for the petitioner submitted that as per 2(A) of the Act, where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with or arising out of such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute. However, in the present case, the alternative employment cannot be sought for by way of dispute u/s 2(A) of the Act. Such a issue entertained by the labour court is not sustainable and the labour court without jurisdiction entertained the dispute raised by the respondent and ordered for reinstatement with alternative employment, which is not sustainable. Further, he submitted that firstly the respondent has to establish that he is an employee of the petitioner management and after establishment, if he wants alternative employee,



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remedy available only before the Person with Disabilities Act. If the respondent is aggrieved by the disabilities sustained by him during the employment, he has to file a claim petition before the Workmen Compensation Court. Without doing so, raising a dispute before the labour court u/s 2(A)(2) of the ID Act is not sustainable and hence, the impugned order passed by the labour court is liable to be set aside. Accordingly, he prays for allowing the writ petition.

4. Per contra, learned counsel appearing for the respondent submitted that the respondent has entered the service as an Operator on daily wages basis by way of resolution dated 22.08.2011 and he was continuously employed till 08.01.2016 and his salary was between Rs.5,000/- to Rs.6,000/- p.m. On 08.01.2016, at about 4.30 p.m. the respondent was changing the bulb on the lamp post at the height of 30 ft., suddenly he has got electrical shock and fell down from the street lamp post, thereby he suffered functional disability and not able to continue his work as earlier. Therefore, he raised a dispute before the conciliation seeking alternative employment, however the same ended in failure, thereby the labour court adjudicated the issue and directed the petitioner to give alternative job to the respondent from 09.07.2016 with back



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wages and all other attendant benefits, which cannot be interfered with.

Accordingly, he prays for dismissal of this writ petition.

5. Heard the learned counsel appearing for the parties and also perused the materials available on record.

6. The issue arises for consideration in this writ petition is whether the respondent is entitled to claim alternative job before the labour court u/s 2(A)(2) of the ID Act.

7. Sections 2(A)(1) and 2(A)(2) of the ID Act is as follows :-

***“2A. [Dismissal, etc. of an individual workman to be deemed to be an industrial dispute.]***

*(1) where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute.*



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*(2) notwithstanding anything contained in Section 10, any such workman as is specified in sub-section (1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute and in respect of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudicate upon the dispute, as if it were a dispute referred to it by the appropriate Government in accordance with the provisions of this Act and all the provisions of this Act shall apply in relation to such adjudication as they apply in relation to an industrial dispute referred to it by the appropriate Government.”*

8. A perusal of the above reveals that any order of discharge, dismissal, retrenchment or otherwise termination, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute and in such circumstances, the labour court can entertain the same. In the present case, the respondent



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did not claim reinstatement or challenged the order of dismissal, however he claimed only for alternative job. Such a relief cannot be entertained by the labour court u/s 2(A)(2) of the ID Act. Without jurisdiction, the labour court has passed the impugned order in favour of the respondent, which is *per se* unsustainable. Hence, the impugned order passed by the labour court is liable to be set aside.

9. Accordingly, this Writ Petition is allowed and the impugned order dated 30.10.2019 passed by the Labour Court, Salem in I.D.No.9 of 2017 is set aside. No costs. Consequently, the connected miscellaneous petition is closed.

**22.04.2025**

Index : Yes / No  
Speaking order / Non-speaking order  
Neutral Citation Case : Yes / No  
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To  
The Labour Court, Salem.



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**M.DHANDAPANI, J.**

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