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W.A.No.2861 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

<i>Reserved on</i>	06.11.2025
<i>Pronounced on</i>	01.12.2025

CORAM :

THE HONOURABLE MR.JUSTICE M.S.RAMESH
AND
THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

W.A.No.2861 of 2025
and
C.M.P.No.23143 of 2025

The Executive Engineer,
Tamil Nadu Water Supply and
Drainage Board,
R.W.S. Sub-Division,
Dharmapuri.

...Appellant

Vs.

1.M.Jayaraman

2.The Presiding Officer,
Labour Court, Salem.

...Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order dated 02.12.2024 passed in W.P.No.27698 of 2008.

For Appellant : Mr.S.Ravindran, Sr. Counsel
for Ms.S.Mekhala

For Respondents : Mr.S.R.Gulshankumar For R1
Labour Court – R2



W.A.No.2861 of 2025

JUDGMENT

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M.S.RAMESH, J.

The 1st respondent herein joined the services of the Tamil Nadu Water Supply and Drainage Board (hereinafter referred to as 'TWAD Board') Dharmapuri/appellant as a Watchman in the year 1988. According to him, on 04.06.2002, when he was engaged as a Watchman at the Inspection bungalow, he was orally terminated from the services. Claiming that he had been continuously working for over a period of 15 years from 1988 to 2002, which includes 240 days in a year and a continuous period of 480 days in 24 months and that he is a regular workman, who was illegally terminated, he had challenged the termination before the Labour Court, Salem, by raising a dispute in I.D.No.487 of 2002. Before the Labour Court, he had marked several documents, Ex.P.1 to Ex.P.21 to substantiate his continuous engagement of services. On the strength of the oral and documentary evidence before it, the Labour Court had declared the oral retrenchment as illegal and directed TWAD Board to reinstate him in his previous status as a Watchman with continuity of service. However, his claim for back wages was denied. When TWAD Board had challenged the Award of the Labour



W.A.No.2861 of 2025

Court before this Court in W.P.No.27698 of 2008, the learned Single Judge had dismissed the Writ Petition on 02.12.2024, which order is assailed in this Writ Appeal.

2. The learned Senior Counsel appearing for the TWAD Board-appellant contended that though the 1st respondent was under their employment between 25.07.1998 and 15.12.1999, the records before the Labour Court reveals that he was engaged by various contractors to maintain the guest house, including security services, from 03.01.2000 onwards. It is his further contention that the 1st respondent was engaged as a Watchman on daily wage basis and that by even taking into account of his services between 25.07.1998 and 15.12.1999, he had not completed 480 days within the period of 24 calendar months for the purpose of regularization. Since the records reveal that he was under the services of various contractors, the last of whom had terminated his services, there was no obligation on the part of TWAD Board to reinstate him. According to him, these aspects were not properly appreciated by both the Labour Court, as well as the learned Single Judge of this Court, and therefore sought for indulgence in this appeal.



W.A.No.2861 of 2025

3. Per contra, the learned counsel appearing on behalf of the 1st respondent submitted that when the TWAD Board had admitted that the Watchman had worked between 25.07.1998 and 15.12.1999, he is deemed to be in continuous service over a period of 12 months and as per the 1996 Settlement under Section 12(3) of the Industrial Disputes Act (hereinafter referred to as 'the Act'), he was eligible to be made permanent. It is also his submission that the 1st respondent was given bonus in the year 1999 and the documents marked before the Labour Court substantiate his employment under TWAD Board. Thus, the oral retrenchment of his services is opposed to the established procedures under the Act and therefore, no interference is required to the Award of the Labour Court or the order passed in the Writ Petition.

4. We have given our anxious consideration to the submissions made on either side.

5. Before we deal with the evidences let in on either side before the Labour Court, we deem it relevant to touch upon the legal status of the services of the Watchman in the given circumstances.



W.A.No.2861 of 2025

6. Section 25B of the Act deals with the definition of the expression "continuous service", which is prefaced with the words "for the purpose of this Chapter", namely Chapter V-A, which deals with lay-off and retrenchment. The words "continuous service" occurs in several sequences, including Section 25F. As per Section 25B, if a workman establishes that he was employed for a period not less than 12 calendar months and during those 12 calendar months, he had worked not less than 240 days, he is deemed to have satisfied the requirement of Section 25B and would be deemed to be a workman in continuous service.

7. As per Section 2(s), "workman" means any person employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical, or supervisory work for hire or reward, whether the terms of employment be expressed or implied, and for the purpose of any proceeding under this Act, in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute. The exceptions to the definition are also provided therein, which may not be material for the purpose of this case.



W.A.No.2861 of 2025

WEB COPY

8. The TWAD Board claims that the concerned workman was engaged on daily wages. The legislature, while framing the definition of a workman, has implicated the words "hire or reward", rather than the word "wages" with a view to enlarge the scope of definition. Hire may take any form and necessarily imports an obligation on the employer to pay. The further inclusion of the word "reward" is not merely for the purpose of giving an alternative to the word "hire," meaning the same language, but for the purpose of bringing any subject matter, which does not include 'hire' and includes cases where there is an obligation to pay.

9. In the case of *Dharangadhra Chemical Works Ltd. vs. State of Saurashtra* reported in (1957) 1 LLJ 477, Justice Bhagwati had held that any payment, on a pro-rata basis, would amount to remuneration, which would squarely fall under the phrase "hire or reward". In the case of *Charity Aids Bus Service vs. T.S.Narayanaswami Raja* reported in (1954) 2 LLJ 29, remuneration, even on a commission basis, was brought under the purview of "hire and reward." Thus, a daily rated workman, who has completed 240 days of continuous service in 12 calendar months, is deemed to have been under continuous service, as



W.A.No.2861 of 2025

per the definition of a workman under Section 2(s) read with section 25B of the Act.

10. The learned Senior Counsel for the appellant admitted that the Watchman was under regular employment between 25.07.1998 and 15.12.1999. His only objection appears to be that thereafter, the document produced before the Labour Court establishes that he was engaged under various contractors on a contract basis, which were not properly appreciated.

11. Apparently, the admission by the learned Senior Counsel is only a reiteration of the admission by R.W.1 before the Labour Court. During the cross-examination, R.W.1 had confirmed that Ex.P.1 to Ex.P.13 produced by the Watchman establishes that he was in employment as a Watchman between 24.10.1998 and 15.12.1999 and the M-book and payment book evidences payment of his wages. R.W.1 further deposed that the Watchman had worked for more than 240 days in one year during this period. In particular, Ex.P.18, dated 05.05.2001, is a letter from the Executive Engineer of TWAD Board to the Assistant Administrative Engineer, Dharmapuri, authorizing to utilize the services



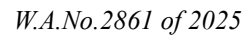
W.A.No.2861 of 2025

of the Watchman on contract basis, at their traveller's bungalow, Odaipatti, till the permanent employees are appointed at their office.

Ex.P.19, dated 10.04.2002, is a similar letter permitting the Executive Engineer of Dharmapuri to utilize the services of the Watchman, through contract basis, till a regular watchman is posted to their office. These documents establishes the Watchman to have been under the services of TWAD Board, till he was deputed to serve at R.W.S. Division, Dharmapuri, on contract basis.

12. When the concerned watchman was already in continuous service under TWAD Board, the appropriate method to discharge his services, could have been only by way of retrenchment, in the light of the stand taken by TWAD Board of disowning their employer status against him. Admittedly, no such procedure for retrenchment was adopted by TWAD Board, before disengaging his services. On the other hand, the only defence appears to be that, he was only a contractual employee under various private contractors and therefore, no liability is cast on the TWAD Board to reinstate him.

13. The Labour Court, apart from appreciating these materials



14. It is rather unfortunate that in spite of strong evidences in favor of Mr. Watchman, the TWAD Board had chosen to keep these vexatious suits pending for the past 23 years and thereby deprived him of his legitimate income and monetary benefits.

Page 9 of 12



W.A.No.2861 of 2025

him till date nor had paid him the last drawn wages under Section 17-B of the Act. In this background, we are inclined to direct the Management to pay his last drawn wages from the date of Award till the date of his reinstatement.

16. In the result, the Writ Appeal stands dismissed with a direction to the appellant-Management to forthwith reinstate the 1st respondent herein into services, together with his last drawn wages from 25.06.2008, which is the date of the Award passed in I.D.No.487 of 2002, till the date of reinstatement. Such orders shall be passed as expeditiously as possible, in any event, within a period of two weeks from the date of receipt of a copy of this judgment. No costs. Consequently, connected miscellaneous petition is closed.

[M.S.R.,J] [R.S.V.,J]
01.12.2025

Index:Yes
Neutral Citation:Yes
Speaking order
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To

The Presiding Officer,



Labour Court, Salem.

WEB COPY



W.A.No.2861 of 2025



WEB COPY



W.A.No.2861 of 2025

M.S.RAMESH, J.
and
R.SAKTHIVEL, J.

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Pre-delivery judgment made in
W.A.No.2861 of 2025

01.12.2025