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W.A.(MD)NO.625 OF 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.03.2025

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

W.A.(MD)No.625 of 2020 IN
C.M.P.(MD)No.3960 of 2020

1. The Assistant Executive Engineer,
Tamil Nadu Water and Drainage Board,
Maintenance Sub Division,
Paramakudi,
Ramnad District.

2. The Tamil Nadu Water and Drainage Board,
Rep. by its Managing Director,
No.31, Kamarajar Salai,
Chennai.

... Appellants / Petitioners

Vs.

1. The Presiding Officer,
Labour Court,
Madurai.

2. Lakshmanan

... Respondents / Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent,
to set aside the order dated 20.03.2019 passed in W.P.(MD)No.14057
of 2011 on the file of this Court.



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W.A.(MD)NO.625 OF 2020

For Appellants : Mr.Veera Kathiravan,
Additional Advocate General,
assisted by,
Mr.R.Satheesh.

For R-2 : Mr.S.M.Mohan Gandhi

* * *

J U D G M E N T

(Order of the Court was delivered by G.R.SWAMINATHAN, J.)

Heard the learned Additional Advocate General assisted by the learned Standing counsel appearing for TWAD Board and the learned counsel appearing for the second respondent.

2. Lakshmanan, second respondent herein was working as a daily wager in TWAD Board from 11.08.1995 till 10.09.1995 and on a contract basis from 19.09.1995 to 31.07.1997. He was then orally disengaged. Lakshmanan raised an Industrial Dispute before the Labour Court, Madurai. The Labour Court took cognizance of the same in I.D.No.43 of 2008. Lakshmanan examined himself as P.W.1. Ex.P.1 to Ex.P.10 were marked on his side. On the side of the management, one Sathiyamoorthy was examined. No documentary evidence was adduced by them. After considering the entire evidence



on record, the Presiding Officer, Labour Court, Madurai vide order dated 07.06.2011 granted relief in the following terms:-

“9. In the result, the non-employment of the petitioner is not justified. The 1st respondent is directed to reinstate the petitioner into service with continuity of service within 3 months from the date of receipt of this order but without backwages and other benefits. No cost. The second respondent is directed to give instructions to the 1st respondent.”

3. Aggrieved by the same, the management of TWAD Board filed W.P.(MD)No.14057 of 2011. The learned single Judge vide order dated 20.03.2019 dismissed the writ petition. Challenging the same, this writ appeal came to be filed.

4. In the counter filed before the Labour Court, the management had taken a stand that Lakshmanan was employed only as a contract labour. In other words, according to them, Lakshmanan was not directly paid by TWAD Board. He was paid only by the contractor on outsourcing basis. In fact, Ex.P.1 marked by Lakshmanan before the Labour Court confirms the stand taken by the



management. In the said statement, Lakshmanan has been described as a watchman employed on a labour contract basis.

5. The learned counsel appearing for the writ petitioner drew our attention to the order dated **07.02.2018** made in ***W.P.(MD) Nos.13054 and 1410 of 2014*** and the order dated **29.11.2018** made in ***W.P.(MD)No.17082 of 2015*** etc., batch. These orders were pronounced by one of us (G.R.S.J.,) and it was held that when TWAD Board is not having any employer's license under the Contract Labour (Regulation and Abolition) Act, 1970, any contract labour engaged by them would have to be construed only as a direct employee of the Board. In fact, it appears that accepting this proposition, the learned Judge dismissed the writ petition filed by the TWAD Board.

6. The learned Additional Advocate General draws our attention to the order dated **12.04.2021** made in ***Special Leave to Appeal(C)Nos.5051-5053 of 2021 (The Executive Engineer TWAD Board & Ors. V. V.K.Mariyappan)***. The Hon'ble Supreme Court in the SLPs filed by TWAD Board against orders made in the aforesaid writ petitions, has granted an interim order of status quo. Therefore, one



may not be justified in placing reliance on the aforesaid earlier orders relied on by the learned counsel for the writ petitioner.

7. Even though the case of the management appears to be a little weak, quite a few features highlighted by the learned Additional Advocate General will have to be taken note of. Admittedly, the second respondent herein was only employed as an NMR. In other words, he was on daily wages. For the period worked in TWAD Board, he was paid only on outsourcing basis through labour contractor. Even according to Lakshmanan, he was disengaged way back on 21.08.1997. But he raised an industrial dispute only in October 2007. In other words, Lakshmanan approached the Labour Court after a lapse of 11 years. We are now in March 2025. Thus for full 28 years, there was no direct employer-employee relationship between TWAD Board and the second respondent. It would be little too much to call upon TWAD Board to reinstate Lakshmanan at this point of time. That apart, the outcome of SLP(C)Nos.5051-5053 of 2021 that is pending before the Hon'ble Supreme Court may have a bearing on this case also. We are of the view that it'll not be equitable to order reinstatement. In such cases, it'd be appropriate to award lump-sum



amount to the workman. When we proposed the same, the learned

Additional Advocate General submitted that the TWAD Board will pay a lump sum of Rs.5,00,000/- (Rupees Five Lakhs only) to Lakshmanan within a period of three months to give a quietus to the issue. In view of the said submission, even while setting aside the order impugned in the writ appeal, we direct the appellant management to pay a sum of Rs.5,00,000/- to the second respondent herein towards full and final settlement of all his claims. This writ appeal is disposed of on these terms. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.SWAMINATHAN, J.) & (M.JOTHIRAMAN, J.)

25th March 2025

NCC : Yes / No

Index : Yes / No

Internet : Yes/ No

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To:

The Presiding Officer,
Labour Court,
Madurai.



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G.R.SWAMINATHAN,J.

AND

M.JOTHIRAMAN, J.

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