



W.P(MD)No.8978 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.07.2025

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.8978 of 2016
and
W.M.P(MD)No.7153 of 2016

1.The Divisional Forest Officer,
Social Forestry Division,
Ramanathapuram.

2.The Conservator of Forests,
Social Forestry Division,
Near Collectorate Premises,
Sathur Road, Virudhunagar,
Virudhunagar District.

... Petitioners

Vs.

1.A.Durairaj

2.The Labour Court,
Madurai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned order, dated 16.09.2015 passed by the second respondent in I.D.No.13 of 2011 and quash the same and pass further orders as this Court.



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W.P(MD)No.8978 of 2016

For Petitioners : Mr.Veera Kathiravan
Additional Advocate General
Assisted by
M/s.D.Farjana Ghoushia
Special Government Pleader

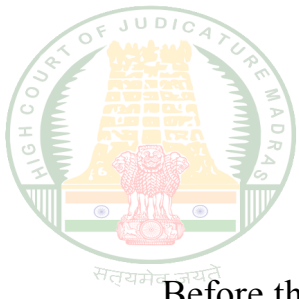
For R-1 : Mr.S.M.Mohan Gandhi

R-2 : Labour Court

ORDER

The respondents in I.D.No.13 of 2011 on the file of the Labour Court, Madurai have filed the present writ petition challenging the award, dated 16.09.2015.

2. The first respondent herein was initially appointed as an NMR in the Social Forest Wing of the Forest Department on 08.03.1985. Later, he was moved to Rural Development Department under G.O(Ms)No.592, dated 16.08.1989. The Rural Development Department had not come forward to accommodate the first respondent and others. Therefore, the first respondent's services were disengaged on 16.08.1989 onwards. The Government passed a G.O on 08.03.1999 to absorb the first respondent herein and others into the Forest Department on the basis of a seniority list maintained by the Department.



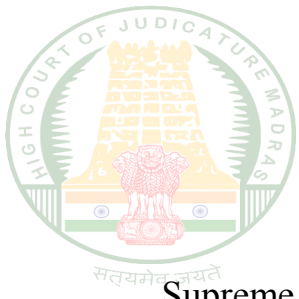
W.P(MD)No.8978 of 2016

WEB COPY

Before the first respondent could reach the seniority and get an appointment, he got superannuated on 07.04.2015.

3. In the meanwhile, the first respondent has raised an industrial dispute in I.D.No.13 of 2011 under Section 2A(2) of the Industrial Disputes Act, 1947 challenging the order of illegal retrenchment / termination by the petitioners herein. The Labour Court ultimately arrived at a finding that, the first respondent has been illegally terminated. However, without ordering reinstatement, a compensation of Rs.1,50,000/- was awarded along with 50% of back wages to be paid to the first respondent within a period of three months. This award is put to challenge by the Forest Department in the present writ petition.

4. According to the learned Additional Advocate General appearing for the writ petitioners, initially, the first respondent was appointed as an NMR in the Social Forest Wing of the Forest Department. In case, if an NMR is illegally retrenched / terminated, he would only be entitled to retrenchment compensation. Therefore, the Labour Court was not right in awarding a compensation of Rs.1,50,000/-. He relied upon the judgment of the Hon'ble



W.P(MD)No.8978 of 2016

WEB COPY

Supreme Court in **2019 (4) SCC 307 [Deputy Executive Engineer Vs.**

Kuberbhai Kanjibhai] especially paragraph No.8 to contend that, such a compensation ought not to have been awarded by the Labour Court. He further submitted that, when an NMR is retrenched, he would not be entitled to seek back wages. Only if the retrenched person is entitled for reinstatement, he would be entitled for seeking back wages, much less 50% of the back wages. In such circumstances, he sought to set aside the award of the Labour Court.

5. Per contra, the learned Counsel appearing for the workman submitted that similarly placed persons, who were not inducted in the Rural Development Department had raised an industrial dispute before the Principal Labour Court, Vellore and an award came to be passed in I.D.Nos.127 to 161 of 2007 on 05.04.2010. Under the said award, reinstatement with back wages was awarded. According to the learned Counsel appearing for the first respondent, this award was confirmed by this Court in W.P.Nos.24601 to 24606 of 2005 batch cases on 08.08.2011. However, no writ appeal was filed as against the said order. In such circumstances, the award of the Labour Court may be confirmed.

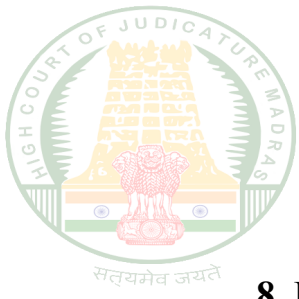


W.P(MD)No.8978 of 2016

WEB COPY

6. The learned Counsel appearing for the first respondent further pointed out that, in order to implement the award of the Labour Court, the workman had filed C.P.No.96 of 2017 before the Labour Court, Madurai, in which, an order has been passed directing the department to pay a sum of Rs.7,22,606/- along with 6% interest per annum from the date of petition till the date of realisation subject to the result of W.P(MD)No.8978 of 2016.

7. The learned Counsel appearing for the first respondent further submits that in order to implement the award of the Labour Court with regard to payment of R.1,50,000/- compensation, he had filed E.P.No.11 of 2017 in I.D.No.13 of 2011. In the said proceedings, orders were passed on 02.02.2019 directing attachment of four jeeps of the Forest Department. This order of attachment was put to challenge before this Court in C.R.P(MD)No.719 of 2019. This Court by an order, dated 06.09.2019 has directed the Department to deposit a sum of Rs.1,50,000/- to the credit of E.P.No.11 of 2017 on or before 18.10.2019. On such condition, the attachment order would be set aside. However, the order of this Court has not been complied with and therefore, the attachment order continues as on today.



W.P(MD)No.8978 of 2016

WEB COPY

8. Heard both sides and perused the materials available on record.

9. It is not in dispute that the first respondent was appointed as an NMR in the Social Forest Wing of the Forest Department. The Forest Department had disengaged them from 16.08.1989 and directed the Rural Development Department to absorb them. However, the Rural Development Department did not absorb them. Therefore, they were out of employment till 08.03.1999, when another G.O was passed to reabsorb the first respondent and similarly placed persons in the Forest Department as plot watchers on the basis of their seniority. However, before the first respondent could reach his seniority for getting an appointment as a plot watcher, he attained superannuation on 07.04.2015.

10. The dates and events narrated above will clearly indicate that, the first respondent was disengaged on 16.08.1989 and till the date of attaining superannuation, he was out of employment. The first respondent was an nominal muster roll employee and he was receiving daily wages. In such circumstances, it is clear that, the first respondent's termination / disengagement is clearly in violation of Section 25 F of the Industrial Disputes Act. Therefore,



W.P(MD)No.8978 of 2016

WEB COPY

all the legal consequences for violation of Section 25 F of the said Act would follow.

11. The Labour Court has awarded a compensation of Rs.1,50,000/-. However, the Department is challenging the payment of such a compensation. A perusal of the order of this Court in W.P.Nos.24601 to 24606 of 2005, dated 08.08.2011 indicates that, instead of payment of compensation, this Court has modified the same as payment of back wages and back wages have been calculated at the rate of Rs.75,000/- for a period of three years. As far as the present case is concerned, if the back wages are calculated at the said rate, it would be around Rs.1,50,000/-. Therefore, this Court is not inclined to interfere in the order of awarding compensation of Rs.1,50,000/-.

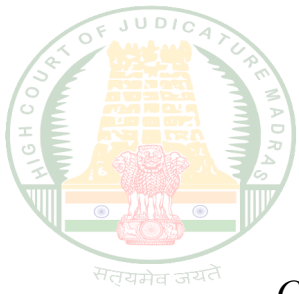
12. The Hon'ble Supreme Court in a judgment reported in **2014 (7) SCC 177 [Bharat Sanchar Nigam Limited Vs. Bhurumal]** in paragraph Nos.33 and 34 has held as follows:

"33. It is clear from the reading of the aforesaid judgments that the ordinary principle of grant of reinstatement with full back wages, when the termination is found to be illegal is not



applied mechanically in all cases. While that may be a position where services of a regular / permanent workman are terminated illegally and / or mala fide and / or by way of victimisation, unfair labour practice, etc. However, when it comes to the case of termination of a daily-wage worker and where the termination is found illegal because of a procedural defect, namely, in violation of Section 25-F of the Industrial Disputes Act, this Court is consistent in taking the view that in such cases reinstatement with back wages is not automatic and instead the workman should be given monetary compensation which will meet the ends of justice. Rationale for shifting in this direction is obvious.

34. The reasons for denying the relief of reinstatement in such cases are obvious. It is trite law that when the termination is found to be illegal because of non-payment of retrenchment compensation and notice pay as mandatorily required under Section 25-F of the Industrial Disputes Act, even after reinstatement, it is always open to the management to terminate the services of that employee by paying him the retrenchment compensation. Since such a workman was working on daily-wage basis and even after he is reinstated, he has no right to seek regularisation. Thus when he cannot claim regularisation and he has no right to continue even as a daily-wage worker, no useful purpose is going to be served in reinstating such a workman and he can be given monetary compensation by the



W.P(MD)No.8978 of 2016

WEB COPY

Court itself inasmuch as if he is terminated again after reinstatement, he would receive monetary compensation only in the form of retrenchment compensation and notice pay. In such a situation, giving the relief of reinstatement, that too after a long gap, would not serve any purpose."

13. In view of the judgment of the Hon'ble Supreme Court, it is clear that, whenever there is an illegal disengagement or termination in violation of Section 25 F of the Industrial Disputes Act, instead of ordering reinstatement, it would be in the interest of justice to order compensation. Therefore, the award of compensation and the quantum of compensation fixed by the Labour Court are hereby confirmed.

14. When no order of reinstatement has been passed, the Labour Court ought not to have awarded back wages. In such circumstances, the order of the Labour Court awarding 50% back wages is hereby set aside.

15. The Labour Court has passed an award on 16.09.2015 directing the Forest Department to pay a compensation of Rs.1,50,000/-. Even though an order was passed by this Court on 06.09.2019 directing the Department to deposit a sum of Rs.1,50,000/- on or before 18.10.2019, so far the Department



W.P(MD)No.8978 of 2016

has neither deposited the amount nor paid the compensation amount to the workman. In such circumstances, the workman is entitled to receive 6% interest from 01.01.2016 onwards on the compensation amount of Rs.1,50,000/-.

16. In view of the above said deliberations, the writ petition stands partly allowed by setting aside the order of back wages but confirming the order of compensation of Rs.1,50,000/- to be paid with interest at the rate of 6% per annum from 01.01.2016 onwards till the date of realisation.

17. With the above said observations, this writ petition stands partly allowed to the extent as stated above. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

16.07.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
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To

The Labour Court,
Madurai.



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W.P(MD)No.8978 of 2016

R.VIJAYAKUMAR, J.

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W.P(MD)No.8978 of 2016

16.07.2025