



W.P(MD)No.20338 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.01.2025

CORAM :

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P(MD)No.20338 of 2017

N.Panjavarnam

... Petitioner

Vs.

1.The Presiding Officer,
Labour Court, Tiruchirappali.
(Camp Court @ Dindigul).

2.The President,
Baganatham Village Panchayat,
Vada Madurai Panchayat Union,
Baganatham Post, Vedasandur Taluk,
Dindigul District.

3.G.Sarasu

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records in connection with the order passed by the 1st respondent in industrial dispute case No.61 of 2014, dated 16.12.2016 and quash the same and consequently, to direct the 2nd respondent to reinstate the petitioner into service as Over Head Tank Operator at 2nd respondent office with continuity of service with all back wages and monetary benefits.



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For Petitioner : Mrs.Radhi Sathish
For R1 : Mr.P.Thambidurai,
Government Advocate
For R2 : No Appearance
For R3 : Mr.K.P.Narayana Kumar,

ORDER

This Writ Petition is filed seeking to quash the order of the 1st respondent dated 16.12.2016 made in I.D.No.61 of 2014.

2.It is the case of the petitioner that her husband, namely, Natarajan was working as Over Head Tank Operator in Bhaganatham Panchayat, Vendasandur Taluk, Dindigul District. He died on 04.09.2002 in a road accident. Therefore, in his place, his wife / petitioner herein was appointed on 01.10.2002 under compassionate ground. She was working up to 31.12.2012 with the 2nd respondent. Thereafter, the 2nd respondent / panchayat President informed the petitioner that since there was water scarcity, there will be no work for her. Later, in her place, the third respondent was appointed. The petitioner made a representation dated 25.03.2013 to the District Collector, Dindigul. The District Collector forwarded the same to the 2nd respondent. The



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2nd respondent, on receipt of such representation, has replied on 30.05.2013 that the petitioner was removed from service in the year 2010 itself. Thereafter, the petitioner sent another representation dated 23.08.2013, requesting reinstatement. Since the same has not been considered, she raised an industrial dispute in I.D.No.61 of 2014 before the 1st respondent. According to the petitioner, during the enquiry, the 2nd and 3rd respondents had produced manipulated documents to prove their version. The Labour Court, Trichirappalli, vide order dated 16.12.2016, rejected the petition filed by the petitioner herein. Challenging the same, this Writ Petition has been filed..

3.This Court, vide order dated 20.01.2025, directed the learned Government Advocate to produce the salary register and original minutes book of the 2nd respondent panchayat, relating to the years 2009 to 2012. Today (27.01.2025), when the matter is taken up for hearing, he has produced the service book of the 3rd respondent as well as the petitioner along with advance ledger. However, he has not produced anything about Provident Fund Ledger and wage register.

4.By referring the said two registers, the learned counsel appearing for the petitioner would submit that the petitioner received a sum of Rs.1000/-



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as advance and the same was deducted every month till 01.09.2012. In the service register also, the details of the appointment are only available but with regard to the termination, there are no details available. She would further submit that these are the documents, which will prove that the petitioner had worked upto 31.12.2012. Therefore, this Court is not inclined to take into consideration the submission made by the 2nd respondent that the petitioner did not come to work from 30.06.2012 onwards. She would contend that the minutes of the meeting was created for the purpose of the case. Therefore, she prays this Court to set aside the award of the Labour Court and direct the respondents to reinstate the petitioner along with back wages.

5.The learned Government Advocate appearing for the 1st respondent would submit that admittedly, the petitioner was appointed on 01.10.2002 after the demise of her husband and she worked upto 31.12.2012. He produced the advance register pertaining to the petitioner, wherein it was stated that the petitioner received a sum of Rs.1000/- in the month of 1st February 2012 and thereafter, a sum of Rs.100/- per month has been deducted upto 1st September 2012. He would further submit that in the service register, appointment date of the petitioner is stated as 01.10.2002, which no details as regards removal or suspension or termination are available. Therefore, this register would go to



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show that as on date, she has not been removed or terminated from service, but she is working. Though he has not filed counter, he stated that appropriate orders may be passed by this Court.

6.The learned counsel for the 3rd respondent would submit that the 3rd respondent was appointed on 02.03.2012 and she is no way connected with the termination of the petitioner. She was independently appointed as Over Head Tank Operator. The learned counsel for the 3rd respondent also has not filed any counter affidavit.

7.I have given due consideration to the submissions made on either side and perused the materials available on record carefully.

8.It is not in dispute that the petitioner had worked from 01.10.2002 to 31.12.2012 under the 2nd respondent panchayat. At present, there are four posts available in the post of Over Head Tank Operator. The dispute is, according to the 2nd respondent, that the petitioner stop coming to the office of the 2nd respondent with effect from 30.06.2010.



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9.A perusal of the minutes of the meeting dated 30.06.2010 would show that the petitioner has expressed her unwillingness to come for work for the reason that the work place is situated 10 km away from her residence and therefore, at her request, she was removed from service with effect from 30.06.2010. However, the petitioner has stated that she worked upto 31.12.2012 and she was not able to attend duty only due to the reason that the 2nd respondent President informed that due to water scarcity, there will be no work for the petitioner.

10.On perusal of the documents produced by the learned Government Advocate for the 1st respondent, it is seen from the service register that the petitioner was appointed on 01.10.2002, however, there are no details with regard to the termination of the petitioner. It is also clearly established from the advance register that the petitioner received a sum of Rs.1000/- in the month of 1st February 2012 and thereafter, a sum of Rs.100/- per month has been deducted upto 1st September 2012 and in this regard, relevant entries have also been made. If the petitioner is not working in the office of the 2nd respondent, the question of payment of advance would not arise at all. Hence, the contention of the respondents that the petitioner was removed from service on 30.06.2010 itself, cannot be countenanced.



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11. After going through the service register and advance register, it can be held that the resolution said to have been passed on 30.06.2010, is a false and fabricated one produced before the Labour Court. That is the reason why, the 2nd respondent was not in a position to produce the original minutes of the meeting before this Court. The Labour Court did not call for original records. Further, wage register has been produced before this Court. In the service register also, there was no entry regarding the termination of the petitioner. When an employee is terminated, an entry to that effect ought to have been made by the 2nd respondent in the service register of the employee. That apart, no notice has been issued to the petitioner before passing the resolution by the panchayat, because, it was a fabricated document produced before the Court. Therefore, the petitioner is entitled to reinstatement.

12. The learned Government Advocate for the 1st respondent informed the Court that the 3rd respondent was appointed in the place of the petitioner and still there are four vacancies available as on date in the post of Over Head Tank Operator. To that effect, a communication dated 20.01.2025 has been sent to the learned Government Advocate by the Block Development Officer (Village Panchayat), Vadamadurai Union. Since there are four vacancies available, I am of the view that the petitioner can very well be accommodated.



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13.For the foregoing reasons, this Court is of the considered view that the order of the Labour Court cannot be sustained and without sufficient materials, the order has been passed. At this juncture, the petitioner requested that in the event of considering her reinstatement, she will not claim any backwages. Accordingly, the impugned order is set aside. It is made clear that since the minutes of the meeting is a created one, which was marked before the Labour Court as Ex.B.9 and the decision taken by the Panchayat, cannot be sustained.

14.Admittedly, the petitioner has not been working from 01.01.2013 onwards. Therefore, 'No Work No Pay' principle has to be applied in this case and hence, the question of paying backwages does not arise at all. It is made clear that the appointment of the petitioner is not a fresh one. Therefore, the District Collector, Dindigul is directed to reinstate the petitioner in the post of Over Head Tank Operator within a period of four weeks from the date of receipt of a copy of this order. The petitioner is not entitled to the back wages, but she is entitled to continuity of service for the purpose of pensionary benefits.



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WEB COPY 15. With the above observation and direction, this Writ Petition is allowed. No costs.

27.01.2025

NCC : Yes / No

Index : Yes / No

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To

1. The Presiding Officer,
Labour Court, Tiruchirappali.
(Camp Court @ Dindigul).

2. The District Collector,
Dindigul.



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KRISHNAN RAMASAMY, J

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