

(2014) 11 MAD CK 0569

Madras High Court

Case No: Writ Appeal No. 1457 of 2014 and M.P. No. 1 of 2014

G. Arumugam

APPELLANT

Vs

The Executive Engineer Tamil
Nadu Water Supply and
Drainage Board

RESPONDENT

Date of Decision: Nov. 21, 2014

Acts Referred:

- Industrial Disputes Act, 1947 - Section 33C

Hon'ble Judges: Satish K. Agnihotri, J; K.K. Sasidharan, J

Bench: Division Bench

Judgement

1. The instant intra-court appeal arises from the order dated 16.10.2012 made in W.P. No.18962 of 2004.
2. The appellant along with 12 other workers, has filed a petition under Section 33-C of the Industrial Disputes Act, claiming weekly leave salary, annual salary, festival holiday salary, bonus arrears and arrears of bonus and pay in C.P. No.150 of 1993. The appellant herein claimed weekly leave salary for the period from 1.5.1984 to 28.2.1993, yearly leave salary from 27.04.1984 to 28.02.1993, festival leave salary from 27.04.1984 to 28.02.1993, arrears of bonus for the year 1990-91, 1991-1992 and 1992-93 and arrears of salary for the period from December, 1992 to February, 1993.
3. The application was opposed by the authorities (Writ petitioners) on the ground that they were purely temporary labourers and were working temporarily; that the first applicant /second respondent in the writ petition was appointed on daily wage basis (Nominal Muster Roll), not on permanent basis. Thus, he was not entitled to wages for weekly holidays and other claims made by him. The first applicant / second respondent was entitled to wages for the days he had worked.

4. The learned Labour Court admitted the claim and ordered the official authorities/writ petitioners to pay a sum of Rs.27,620/- . Being aggrieved, the authorities preferred the writ petition before this Court, impugning the legality of the order dated 20.11.2003.

5. The learned Single Judge, relying on G.O. Ms.No.111, Municipal Administration and Water Supply Department dated 29.09.2006 and also G.O. Ms.No.261 dated 14.10.1996, directed to regularize the services of the second respondent on completion of 480 days from 26.10.1995. However, monetary benefit was given only from 1.8.2006 in terms of G.O. Ms.No.111 dated 29.9.2006.

6. By G.O.(D)No.454, Municipal Administration and Water Supply Department dated 22.8.1995, it was decided to create Tamil Nadu Water Supply and Drainage Board (for short TNWSDB) for maintenance of combined water supply scheme controlled by the local authority. Accordingly, the District Collectors were directed to obtain resolutions of the local bodies and hand over all the combined water supply scheme to the TNWSDB and other authorities were also directed to take necessary steps. Thereafter, pursuant to G.O. Dated 14.10.1996, total 2037 posts were created for maintaining 383 combined water schemes, out of that 1059 posts were created for Maintenance Assistant (Watchman, tap opener, sweeper, etc.).

7. The second respondent was appointed in the TNWSDB directly from the employment exchange on 27.4.1994. Thereafter, a representation was made for regularisation on completion of 480 days, which was accepted. However, G.O. Ms.No.111 dated 29.9.2006 provides for grant of monetary benefit with effect from 1.8.2006.

8. Having regard to all the facts of the case, the learned Single Judge directed to regularise the services of the second respondent on completion of 480 days from 26.10.1995. But he was made entitled to monetary benefits only from 1.8.2006.

9. Now, the question that arises before us is whether the appellant is entitled to back wages?

10. The fact remains that the appellant continued as daily wage employee on NMR basis till the order of regularisation was passed with effect from the back date. In that event, the appellant cannot claim the benefit from the back date as the appellant had worked as daily wage employee. The learned Single Judge has rightly relied on G.O dated 29.9.2006 for the purpose of grant of monetary benefit with effect from 1.8.2006.

11. We do not find any irregularity and illegality for taking view contrary to that of the learned Single Judge. Accordingly, the writ appeal is dismissed. No costs. Consequently connected miscellaneous petition is closed.