

(2004) 08 MAD CK 0012
In the Madras High Court
Case No : Writ Petition No. 39598 of 2002

G. Boopalan

APPELLANT

Vs

The Executive Engineer and Administrative Officer, Tamil Nadu Housing Board, Housing Unit and The Presiding Officer of Labour Court

RESPONDENT

Date of Decision : 09-08-2004

Acts Referred:

Citation : (2004) 08 MAD CK 0012

Hon'ble Judges : M. Chockalingam, J

Bench : Single Bench

Advocate : T. Aananthi, for the Appellant; D. Veerasekaran, for Tamil Nadu Housing Board (R1), for the Respondent

Final Decision : Dismissed

Judgement

M. Chockalingam, J.—This writ petition has been brought forth seeking a Writ of Certiorarified Mandamus, to quash the order of the 2nd

respondent in connection with the award dated 24.1.97 in I.D. No. 156/1995 and direct the respondents to reinstate the petitioner into service as

Night Watchman and to grant all consequential and monetary benefits.

2. From the averments made in the writ petition and the submissions made by the learned counsel for the petitioner, it is seen that the petitioner was

working as a Night Watchman under the first respondent from 18.12.1984 and subsequently he was denied employment from 25.12.1986. He

was orally instructed not to report for work. The petitioner approached the legal aid committee. The Executive Engineer has sent a reply promising

to provide employment after getting orders from Madras. The petitioner also sent a petition to Consumer Protection Society and also to the Chief

Minister (Special Cell) but no reply was brought forth .The persons who were employed along with the petitioner were again provided

employment by the respondents. Thus, the denial of employment for the petitioner is violative of principles of natural justice and derogative of the

guaranteed rights. A petition was filed before the Lower Court, Vellore, which was taken up for consideration and the same was dismissed. Under

such circumstances, the writ petition was brought forth before this Court invoking writ jurisdiction.

3. What was all contended by the respondent before the Forum below and here also is that the petitioner was only engaged as Nominal Muster

Roll on 13.12.1984 and subsequently from 25.11.1986 he has deserted from service without any information. Since he was engaged on daily

wages, no further action was taken for his unauthorised absence. After a period of six years, the petitioner made a representation for his

appointment. As per orders issued in G.O.Ms. No. 400, Housing and Urban Development Department dated 2.5.1990, no N.M.R. should be

recruited in the Housing Board without prior sanction of the Government. Therefore, the request of the petitioner could not be considered for

appointment and hence, his representation was rejected. Not satisfied with the same, the petitioner took it before the Labour Court, Vellore. The

Labour Court had taken the matter for consideration, examined the witnesses and made a thorough investigation and dismissed the same.

4. After careful consideration of the submission made by the learned counsel for both and the scrutiny of the materials available on record, this

Court is of the considered opinion that the writ petition warrants dismissal in the hands of this Court. It is not in controversy that the petitioner was

engaged as Night watchman in the respondent department only as N.M.R. on daily wages basis on 13.12.1984. It is also brought to the notice of

the Court that he was deserted from work without any information during 1986 i.e., from 25.12.1986. Under such circumstances, no question of

taking any action against him arose. After a period of six years, suddenly the petitioner had filed a representation that he should be given

appointment, pursuant to the work he had done as N.M.R. during 1986. There was latches on the part of the petitioner which was also considered

by the lower forum. Therefore, the case by the respondent putforth before the Labour Court is equally applicable here also, wherein the petitioner

who had worked as a night watchman as N.M.R. on daily wages basis, and who had deserted the service for an interval, had come forward with a representation seeking appointment after six years. Hence, it would be suffice to refuse the relief since the Court is unable to see any infringement of any right guaranteed under the Constitution of India or any violation of principles of natural justice as putforth by the learned counsel for the petitioner. Learned counsel for the petitioner would further submit that the officials of the respondents asked the petitioner to wait stating that they would provide employment but in order to substantiate the same no material is produced before the Lower Court or before this Court. Accordingly, the writ petition is dismissed leaving the parties to bear their costs.