
(2014) 09 MAD CK 0186

In the Madras High Court

Case No : W.P. (MD) No. 7368 of 2006 and M.P. (MD) No. 1 of 2006

K. Mookkandi

APPELLANT

Vs

The Superintending Engineer

RESPONDENT

Date of Decision : 10-09-2014

Acts Referred:

Citation : (2014) 09 MAD CK 0186

Hon'ble Judges : S. Nagamuthu, J

Bench : Single Bench

Judgement

S. Nagamuthu, J.—The petitioner claims that he was engaged as a Contract Labourer in the Tamil Nadu Electricity Board from 01.11.1984, onwards. On completion of five years of service as Contract Labourer, in the year 1990, he was paid ex-gratia by the Tamil Nadu Electricity Board. Thereafter, The Superintending Engineer, Ramanathapuram Electricity Distribution Circle, Ramanathapuram, by his proceedings in Ku.Aa. No. 015384/736/U.Ni.A/Ni.Bi.2/U, 1/Ko.Masdoor Grade-II, dated 15.12.2005, absorbed the petitioner as Grade-II Masdoor. Thereafter, the 1st respondent by his proceedings in KU. No. Se.Po/Vini/Para/Nipi/U.1/Ko.Mas/A. No. 1544/06, dated 28.04.2006, called for explanation from the petitioner as to why the said order of absorption, dated 15.12.2005, should not be cancelled on the ground that the petitioner is not entitled for such absorption. It was stated in the said show cause notice that those contract labourers who were engaged on or before 19.01.1988 alone were entitled for absorption; whereas the petitioner was engaged as contract labourer only on 05.10.1988 and thus he was not entitled for absorption. Disputing the same, the petitioner submitted his explanation on 15.05.2006 stating that he was engaged as contract labourer from 01.11.1984 onwards and not from 05.10.1988 and therefore his absorption was legally right. Not having been satisfied with the said explanation, the first respondent by his proceedings in Ku.Aa. No. 0543/765-1/U Ni A/Nipi 2/U Tha.1/Ko.Masdoor II Grade (Trainee) 06, dated 05.07.2006, cancelled the earlier order, dated 15.12.2005 and thus cancelled the absorption. Challenging the same, the petitioner is before this

Court with this writ petition.

2. I have heard the learned counsel for the petitioner and the learned counsel for the respondents and I have also perused the records, carefully.

3. In this writ petition, it is contended that the petitioner was engaged as contract labourer from 01.11.1984 onwards. It is further stated that the allegations that he was engaged only from 05.10.1988 is absolutely false. It is further contended that in the impugned order it has been stated that no document was produced to prove that he was engaged as contract labourer from 01.11.1984 but, in fact, number of documents, such as the certificates issued by the respective Assistant Engineers and Junior Engineers concerned, were all produced to show that the petitioner was engaged as contract labourer from 01.11.1984, onwards.

4. In the counter filed by the 2nd respondent, it is stated that the certificate produced by the petitioner, issued by the Assistant Engineers and Junior Engineers, are all bogus and forged documents. It is further stated that the date of birth of the petitioner is 14.05.1968; whereas it is claimed that at the age of 16 years on 01.11.1984, he was engaged as a contract labourer. It is stated that the petitioner would not have been engaged as a contract labourer when he was a minor. It is further stated that the document showing payment of ex-gratia to the petitioner on his completing five years of service is only the xerox copy and the same also cannot be relied on. Thus, according to the counter, the petitioner was engaged as contract labourer only with effect from 05.10.1988 for which there are documents and therefore he is not entitled for absorption. Thus, according to the respondents, the cancellation of the absorption order is right, which does not require any interference at the hands of this Court.

5. I have considered the above submissions.

6. As it is seen from the impugned order, the stand of the respondent, originally, is that there was no document produced by the petitioner to show that he was engaged as a contract labourer from 01.11.1984. But, quite contrary, a statement has been made in the counter that in fact documents were produced but those documents were bogus and forged. Along with the typed-set of papers, the petitioner has produced certificates issued by the respective Assistant Engineers and the Juniors of the respondent Board, under whom the petitioner worked during the relevant period to show that he was engaged as a contract labourer from 01.11.1984, onwards. But, absolutely, there is no material to show that these documents are bogus or forged. The learned counsel for respondents would submit that the Assistant Engineer or the Junior Engineer is not competent to issue any such certificate. When a specific query was made as to then who is competent to issue such certificates, he has got no reply. Thus, I do not find any material to accept the stand of the respondents that the documents produced showing that the petitioner was engaged as contract labourer from 01.11.1984, continuously, are all bogus and forged documents. Therefore, I hold that these

documents are genuine documents which clinchingly go to prove that the petitioner was engaged as contract laborer from 01.11.1984 onwards.

7. It is the contention of the respondents that as on 01.11.1984, the petitioner was hardly 16 years old and therefore he could not have been engaged as a contract labourer. This is only out of assumption, which has got no basis. There is no prohibition to engage a fully grown person at the age of 16 years as a contract labourer. From the date of birth and from the fact that the petitioner was hardly aged 16 years on the date when he was engaged as a contract labourer, it cannot be concluded that he would not have been engaged at all.

8. As I have already concluded, there are enormous documents to show that the petitioner was working as contract labourer, continuously, from 01.11.1984 and he was also paid ex-gratia on successful completion of five years of service in the year 1990 and thus he is entitled for absorption. Thus the impugned orders cancelling the absorption are not sustainable and the same deserve to be set aside.

9. In the result, the writ petition is allowed and the impugned orders are set aside. No costs. Connected miscellaneous petition is closed.