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W.P.Nos.8231 to 8247 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27..06..2023

Coram

THE HON'BLE MR JUSTICE V. LAKSHMINARAYANAN

Writ Petition Nos.8231 to 8247 of 2015

and

M.P.Nos.1 and 2 of 2015

E.Deenadhayalan

..... Petitioner in W.P.No.8231 of 2015

E.Thanasekar

..... Petitioner in W.P.No.8232 of 2015

M.Iyyappan

..... Petitioner in W.P.No.8233 of 2015

E.Venkatesan

..... Petitioner in W.P.No.8234 of 2015

V.Harikrishnan

..... Petitioner in W.P.No.8235 of 2015

R.Madankumar

..... Petitioner in W.P.No.8236 of 2015

C.Selvakumar

..... Petitioner in W.P.No.8237 of 2015

K.Ramesh

..... Petitioner in W.P.No.8238 of 2015

K.Ramesh

..... Petitioner in W.P.No.8239 of 2015

E.Murugan

..... Petitioner in W.P.No.8240 of 2015

P.S.Gopi

..... Petitioner in W.P.No.8241 of 2015

N.Moorthy

..... Petitioner in W.P.No.8242 of 2015

V.Venkatesan

..... Petitioner in W.P.No.8243 of 2015



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M.Dayalan

..... Petitioner in W.P.No.8244 of 2015

C.Saravanan

..... Petitioner in W.P.No.8245 of 2015

S.Gandhi

..... Petitioner in W.P.No.8246 of 2015

S.Krishnan

..... Petitioner in W.P.No.8247 of 2015

-Versus-

1. Lakshmi Narayanan,
Contractor,
SVG & Co.,
58, Post Office Street,
Sholingur.

2. Apparajitha Corporate Service (P) Limited,
Krishnavaram Village,
Karikkal Post, Sholingur.

3. The Presiding Officer,
Additional Labour Court,
Vellore.

..... Respondents

Prayer in W.P.No.8231 of 2015: Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to I.D.No.78 of 2012 on the file of the 3rd respondent and to quash the Award dated 05.03.2014 passed in I.D.No.78 of 2012 by the 3rd respondent and direct the 2nd respondent to reinstate the petitioner into service with continuity of service, with entire back wages as well as all other attendant and consequential service benefits on par with the employees who had been working along with the petitioner on the date of termination of the petitioner from service and consequently make the petitioner



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as a permanent employee of the 2nd respondent company on par with the co-workers.

Prayer in W.P.No.8232 of 2015: Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to I.D.No.79 of 2012 on the file of the 3rd respondent and to quash the Award dated 05.03.2014 passed in I.D.No.79 of 2012 by the 3rd respondent and direct the 2nd respondent to reinstate the petitioner into service with continuity of service, with entire back wages as well as all other attendant and consequential service benefits on par with the employees who had been working along with the petitioner on the date of termination of the petitioner from service and consequently make the petitioner as a permanent employee of the 2nd respondent company on par with the co-workers.

Prayer in W.P.No.8233 of 2015: Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to I.D.No.92 of 2012 on the file of the 3rd respondent and to quash the Award dated 05.03.2014 passed in I.D.No.92 of 2012 by the 3rd respondent and direct the 2nd respondent to reinstate the petitioner into service with continuity of service, with entire back wages as well as all other attendant and consequential service benefits on par with the employees who had been working along with the petitioner on the date of termination of the petitioner from service and consequently make the petitioner as a permanent employee of the 2nd respondent company on par with the co-workers.

Prayer in W.P.No.8234 of 2015: Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorarified Mandamus



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calling for the records pertaining to I.D.No.87 of 2012 on the file of the 3rd respondent and to quash the Award dated 05.03.2014 passed in I.D.No.87 of 2012 by the 3rd respondent and direct the 2nd respondent to reinstate the petitioner into service with continuity of service, with entire back wages as well as all other attendant and consequential service benefits on par with the employees who had been working along with the petitioner on the date of termination of the petitioner from service and consequently make the petitioner as a permanent employee of the 2nd respondent company on par with the co-workers.

Prayer in W.P.No.8235 of 2015: Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to I.D.No.86 of 2012 on the file of the 3rd respondent and to quash the Award dated 05.03.2014 passed in I.D.No.86 of 2012 by the 3rd respondent and direct the 2nd respondent to reinstate the petitioner into service with continuity of service, with entire back wages as well as all other attendant and consequential service benefits on par with the employees who had been working along with the petitioner on the date of termination of the petitioner from service and consequently make the petitioner as a permanent employee of the 2nd respondent company on par with the co-workers.

Prayer in W.P.No.8236 of 2015: Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to I.D.No.89 of 2012 on the file of the 3rd respondent and to quash the Award dated 05.03.2014 passed in I.D.No.89 of 2012 by the 3rd respondent and direct the 2nd respondent to reinstate the petitioner into service with continuity of service, with entire back wages as



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well as all other attendant and consequential service benefits on par with the employees who had been working along with the petitioner on the date of termination of the petitioner from service and consequently make the petitioner as a permanent employee of the 2nd respondent company on par with the co-workers.

Prayer in W.P.No.8237 of 2015: Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to I.D.No.82 of 2012 on the file of the 3rd respondent and to quash the Award dated 05.03.2014 passed in I.D.No.82 of 2012 by the 3rd respondent and direct the 2nd respondent to reinstate the petitioner into service with continuity of service, with entire back wages as well as all other attendant and consequential service benefits on par with the employees who had been working along with the petitioner on the date of termination of the petitioner from service and consequently make the petitioner as a permanent employee of the 2nd respondent company on par with the co-workers.

Prayer in W.P.No.8238 of 2015: Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to I.D.No.99 of 2012 on the file of the 3rd respondent and to quash the Award dated 05.03.2014 passed in I.D.No.99 of 2012 by the 3rd respondent and direct the 2nd respondent to reinstate the petitioner into service with continuity of service, with entire back wages as well as all other attendant and consequential service benefits on par with the employees who had been working along with the petitioner on the date of termination of the petitioner from service and consequently make the petitioner as a permanent employee of the 2nd respondent company on par with the co-



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workers.

Prayer in W.P.No.8239 of 2015: Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to I.D.No.111 of 2012 on the file of the 3rd respondent and to quash the Award dated 05.03.2014 passed in I.D.No.111 of 2012 by the 3rd respondent and direct the 2nd respondent to reinstate the petitioner into service with continuity of service, with entire back wages as well as all other attendant and consequential service benefits on par with the employees who had been working along with the petitioner on the date of termination of the petitioner from service and consequently make the petitioner as a permanent employee of the 2nd respondent company on par with the co-workers.

Prayer in W.P.No.8240 of 2015: Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to I.D.No.114 of 2012 on the file of the 3rd respondent and to quash the Award dated 05.03.2014 passed in I.D.No.114 of 2012 by the 3rd respondent and direct the 2nd respondent to reinstate the petitioner into service with continuity of service, with entire back wages as well as all other attendant and consequential service benefits on par with the employees who had been working along with the petitioner on the date of termination of the petitioner from service and consequently make the petitioner as a permanent employee of the 2nd respondent company on par with the co-workers.

Prayer in W.P.No.8241 of 2015: Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to I.D.No.107 of 2012 on the file of the 3rd



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respondent and to quash the Award dated 05.03.2014 passed in I.D.No.107 of 2012 by the 3rd respondent and direct the 2nd respondent to reinstate the petitioner into service with continuity of service, with entire back wages as well as all other attendant and consequential service benefits on par with the employees who had been working along with the petitioner on the date of termination of the petitioner from service and consequently make the petitioner as a permanent employee of the 2nd respondent company on par with the co-workers.

Prayer in W.P.No.8242 of 2015: Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to I.D.No.103 of 2012 on the file of the 3rd respondent and to quash the Award dated 05.03.2014 passed in I.D.No.103 of 2012 by the 3rd respondent and direct the 2nd respondent to reinstate the petitioner into service with continuity of service, with entire back wages as well as all other attendant and consequential service benefits on par with the employees who had been working along with the petitioner on the date of termination of the petitioner from service and consequently make the petitioner as a permanent employee of the 2nd respondent company on par with the co-workers.

Prayer in W.P.No.8243 of 2015: Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to I.D.No.105 of 2012 on the file of the 3rd respondent and to quash the Award dated 05.03.2014 passed in I.D.No.105 of 2012 by the 3rd respondent and direct the 2nd respondent to reinstate the petitioner into service with continuity of service, with entire back wages as well as all other attendant and consequential service benefits on par with the



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employees who had been working along with the petitioner on the date of termination of the petitioner from service and consequently make the petitioner as a permanent employee of the 2nd respondent company on par with the co-workers.

Prayer in W.P.No.8244 of 2015: Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to I.D.No.109 of 2012 on the file of the 3rd respondent and to quash the Award dated 05.03.2014 passed in I.D.No.109 of 2012 by the 3rd respondent and direct the 2nd respondent to reinstate the petitioner into service with continuity of service, with entire back wages as well as all other attendant and consequential service benefits on par with the employees who had been working along with the petitioner on the date of termination of the petitioner from service and consequently make the petitioner as a permanent employee of the 2nd respondent company on par with the co-workers.

Prayer in W.P.No.8245 of 2015: Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to I.D.No.100 of 2012 on the file of the 3rd respondent and to quash the Award dated 05.03.2014 passed in I.D.No.100 of 2012 by the 3rd respondent and direct the 2nd respondent to reinstate the petitioner into service with continuity of service, with entire back wages as well as all other attendant and consequential service benefits on par with the employees who had been working along with the petitioner on the date of termination of the petitioner from service and consequently make the petitioner as a permanent employee of the 2nd respondent company on par with the co-workers.



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Prayer in W.P.No.8246 of 2015: Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to I.D.No.98 of 2012 on the file of the 3rd respondent and to quash the Award dated 05.03.2014 passed in I.D.No.98 of 2012 by the 3rd respondent and direct the 2nd respondent to reinstate the petitioner into service with continuity of service, with entire back wages as well as all other attendant and consequential service benefits on par with the employees who had been working along with the petitioner on the date of termination of the petitioner from service and consequently make the petitioner as a permanent employee of the 2nd respondent company on par with the co-workers.

Prayer in W.P.No.8247 of 2015: Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to I.D.No.108 of 2012 on the file of the 3rd respondent and to quash the Award dated 05.03.2014 passed in I.D.No.108 of 2012 by the 3rd respondent and direct the 2nd respondent to reinstate the petitioner into service with continuity of service, with entire back wages as well as all other attendant and consequential service benefits on par with the employees who had been working along with the petitioner on the date of termination of the petitioner from service and consequently make the petitioner as a permanent employee of the 2nd respondent company on par with the co-workers.



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*For Petitioner(s) : Mr.R.Shanmugham
for M/s.Shanmugha Associates for
petitioner in all Writ Petitions*

*For Respondents : Mr.Sai Prasad
for M/s.Sai Raaj Associates for
R1 in all Writ Petitions*

*Mr.Sanjay Mohan for
M/s.S.Ramasubramaniam
Associates for R2 in all Writ
Petitions*

COMMON ORDER

The petitioner in all these writ petitions claim to be the workmen under the 2nd respondent. They challenge the award dated 05.03.2014 made in I.D.Nos.78, 79, 92, 87, 86, 89, 82, 99, 111, 114, 107, 103, 105, 109, 100, 98 & 108 of 2012 whereunder the requests of the petitioners for reinstatement with continuity of service, payment of back wages and all other benefits had been rejected by the 3rd respondent - Presiding Officer, Additional Labour Court, Vellore.

2. The case of the petitioner in these writ petitions is that they were employees of the 2nd respondent. They had been sent to the 2nd respondent by the 1st respondent contractor.



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3. It was argued before me that, in fact, it was the 2nd respondent, who employed the respective petitioners and not by the 1st respondent and they were all direct employees of the 2nd respondent and therefore, their non-employment gives them cause of action for the batch of writ petitions.

4. The labour court had gone through the W-series documents and had come to a conclusion that all of them were employed by SVG & Company. In fact, it also returned a finding that the petitioners took up the case that they wanted to be engaged by Brakes India Private Limited and had gone on protest and strike. While this was the case of the petitioners outside of the court, they filed 2-A dispute and they had started claiming a right with respect to the 2nd respondent company. The labour court has come to the conclusion that the workmen have not proved that they were under the control and directions of the 2nd respondent. On the contra, the evidence seems to be that it was the 1st respondent, who used to depute them to several companies. The fact that they worked under the 2nd respondent, on account of the contract with the 1st respondent, does not give them a right to be reinstated in the 2nd respondent company.

5. Apart from the above, the 2nd respondent has filed counter before this court individually in all the writ petitions stating that in and about April, 2016,



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he ceased to have any connection with respect to warehousing operations and that lease on the basis of which he was carrying on the business had also been determined. The relationship between the 2nd respondent and the petitioners not having been proved, I have no other option, but to confirm the common order of the labour court. Thus, the writ petitions fail and the same are liable to be dismissed.

In the result, the writ petitions are dismissed. The impugned order of the labour court dated 05.03.2014 made in I.D.Nos.78, 79, 92, 87, 86, 89, 82, 99, 111, 114, 107, 103, 105, 109, 100, 98 and 108 of 2012 stands confirmed. No costs. Consequently connected MPs are closed.

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Index : yes / no
Neutral Citation : yes / no
Speaking / Non Speaking Order
kmk

To

1.The Presiding Officer,
Additional Labour Court,
Vellore.



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V.LAKSHMINARAYANAN, J.

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