

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:21.01.2015

C O R A M

THE HONOURABLE Mr.JUSTICE T. RAJA

W.P.No.9688 of 2006

Superintending Engineer,
Chennai Electricity Distribution Circle,
Central/Electricity Avenue,
Anna Salai, Chennai-600 002.

...Petitioner

Vs.

1.K. Ramakrishnan
2.The Presiding Officer,
I Additional Labour Court,
Chennai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of the second respondent/Labour Court relating to its Award, dated 01.11.2004 passed in I.D.No.567 of 2000 and quash the same as illegal and without jurisdiction.

For Petitioner : Ms. R. Varalakshmi

For R-1 : M/s. T. Varadarajulu

For R-2 : Court

O R D E R

This writ petition has been filed against the impugned award passed by the learned First Additional Labour Court, Chennai, in I.D.No.567 of 2000 under Section 2 A (2) of the I.D.Act.

2. Mrs. R. Varalakshmi, learned counsel for the petitioner, assailing the finding given by the Labour Court, would submit that the first respondent, K. Ramakrishnan was not directly employed in the petitioner's Board and there was no true employer and employee relationship between the petitioner and the first respondent. That apart, in the counter filed by the petitioner before the Labour Court, the said relationship was categorically denied. But, the Labour Court, accepting the findings recorded in the order passed in W.C.No.62/96 by the Deputy Commissioner of Labour, under the Workmen's Compensation Act, dated 04.09.1998

awarding of a compensation of Rs.16,719/- with 12% interest, wrongly came to the conclusion that the first respondent was working as a daily rated employee for the past two years, namely from the year 1991 and that finding is absolutely untenable. Adding further, she has stated that when the first respondent was examined as W.W.1, in his deposition, he has mentioned that he is working in the petitioner's Board from 1991 as daily rated employee on payment of Rs.28/- per day. But, there is no iota of evidence to prove that he was directly employed in the petitioner's Board nor any proof, was produced for payment of his daily wages by the petitioner Board.

3. Nevertheless, when the first respondent, who was working as the contract labourer under the contractor, had met with an accident on 05.07.1994 for which he filed W.C.No.62/96 on the file of Deputy Commissioner of Labour under the Workmen Compensation Act, since he received a sum of Rs.16,719/- with 12% interest for the injury as compensation on the basis that he was working as a contract labourer on a daily wages basis, the learned Labour Court, considering the findings recorded by the authority under the Workmen Compensation Act in the order passed in W.C.No.62/96 dated 04.09.1998 came to the wrong conclusion that the first respondent was refused employment as he met with an accident. Therefore, the said approach adopted by the learned labour court is liable to be interfered with and set aside.

4. Concluding the argument, she further pleaded that the first respondent stopped working under the contract labour arrangement. Nearly after a period of six years, he raised a dispute before the Court for conciliation which ended in failure. Thereafter, he filed I.D.No.567/2000 under Section 2-A (2) of I.D.Act, 1947. Ignoring the long delay of about six years, the impugned award has been passed ignoring the crucial plea raised by the petitioner that there was no employer and employee relationship between the petitioner and the first respondent and one another significant issue that the first respondent had failed to prove that he has continuously worked for a period of 242 days and his services were terminated illegally.

5. But this Court is unable to accept any justification in the above submissions for the reason that the first respondent while working in the petitioner's Board from June 1991 by digging pit, painting transformer and lining work, unfortunately, the cable bursted and the tar poured all over his body. As a result, he sustained injuries and was admitted in a hospital for treatment. This incident was clearly deposed by the first respondent before the Labour Court. During the course of recording the evidence, he has deposed that he was treated as

in-patient for six months and plastic surgery was done. In support of his evidence, he has marked Ex.W4 showing his admission as in- patient on 18.07.1994 in KMC hospital and discharge certificate was issued on 22.08.1994.

6. In this connection, when the petitioner applied for compensation in W.C.No.62/96 before the Deputy Commissioner of Labour under Workmen Compensation Act, the compensation was paid by way of demand draft and that was also marked as Ex.W8.

7. In view of the above documents, the definite case of the first respondent that he was under the employment of the petitioner from June 1991 till the date of accident on 05.07.1994 was accepted by the Labour Court on the basis of the service certificate issued by the Assistant Engineer on 28.01.1995 which has been marked as Ex.W6. When the Labour Court has come to the factual findings on the basis of the oral and documentary evidence of the first respondent that he was employed as a casual workman on and from June 1991 till the date of accident on 05.07.1994 directly under the petitioner Board and not through contractor or under the contractor, more particularly, on the basis of Ex.W7, the payment order issued under Ex.W8 to the first respondent, I am of the considered view that he is entitled to reinstatement and continuity of service as casual workman with 50% backwages from 06.07.1994 as ordered by the Labour Court.

In the result, the writ petition is dismissed. No costs.

Sd/-

Asst.Registrar (Records)

/true copy/

Sub Asst. Registrar

Gv

To

The Presiding Officer,
I Additional Labour Court,
Chennai.

1 cc to M/s. R. Varalakshmi, Sr. 3688

1 cc to Mr.S.T. Varadarajulu, Sr 3354

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