

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 21.10.2016

CORAM

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

W.P. Nos.14430 to 14433 of 2016
& W.M.P.Nos.12617 to 12620 of 2016

1.Karpagam Traders

Rep.by its Proprietor -
Thiruvengada Krishnan,
No.5, Gandhi Street,
Krishnamurthy Nagar,
Kodungaiyur,
Chennai - 600 118.

Represented by,

2.Thirugnanam

3.Ramachandran

... Petitioners
[in all W.Ps.]

Vs.

The Presiding Officer,

III Additional Labour Court,
Chennai.

.. Respondent
[R-1 in all W.Ps.]

V.Rekha

.. Respondent
[R-2 in W.P.No.14430 of 2016]

S.Sujatha

.. Respondent
[R-2 in W.P.No.14431 of 2016]

D.Shanthi

.. Respondent
[R-2 in W.P.No.14432 of 2016]

D.Pushpa

.. Respondent
[R-2 in W.P.No.14433 of 2016]

COMMON PRAYER : Writ Petitions have been filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records of the first respondent in I.D.Nos.8, 9, 10 and 12 of 2015 and quash its award dated 05.03.2016 respectively.

For Petitioners : Mr.S.Ravindran
[in all W.Ps.]
For Respondent No.1 : Court
[in all W.Ps.]
For Respondent No. : Mr.S.Purushothamados
in all writ petitions

C O M M O N O R D E R

The petitioners have come before this Court seeking to set aside the award of the Labour Court, by which, the petitioners have been directed to pay the benefit for the period from 24.06.2014 till 17.07.2015.

2.The respondents 2 to 5 herein were employed by the petitioners from 1997, 1994, 1991 and 1988 and their monthly salary was Rs.8,100/-, 9,900/-, 8,550/- and 10,200/- respectively. However, when they reported duty on 24.06.2014, the petitioners did not allow them to do the work and therefore, an industrial dispute was raised by the respondents 2 to 5. After conducting enquiry, the Tribunal found that the respondents 2 to 5 herein are entitled for the benefit for the period from 24.06.2014 to 17.07.2015, as the respondents 2 to 5 were re-instated into service on 17.07.2015. Challenging the same, the petitioners have come forward with the present Writ Petitions before this Court.

3.Mr.S.Ravindran, learned counsel appearing for the petitioners would submit that in a cryptic manner, the award has been passed. There is no finding as to whether the petitioners terminated the respondents 2 to 5 and the terminations are illegal. Further, the petitioners offered employment to the respondents 2 to 5 on the first hearing of the claim petition on 04.03.2015 whereas they have reported duty only on 17.07.2015. In spite of that, Labour Court had ordered the benefit from 24.06.2014 to 17.07.2015 which is unsustainable in the eye of law.

4.On the other hand, the learned counsel for the respondents 2 to 5 opposed the claim made by the petitioners.

5.A perusal of the records would show that the respondents 2 to 5 were employed by the petitioners and there is no dispute with regard to the same. Though it is claimed by the petitioners that there is no termination of the work on their own, the respondents 2 to 5 had not reported to the duty. It is improbable to conclude that the respondents 2 to 5 with such a meagre salary would not have reported to the duty. As rightly found by the Tribunal at paragraph 8 of the award in I.D.Nos.8, 9, 10 and 12 of 2015 dated 05.03.2016 respectively, the petitioners have not produced the Attendance Register,

especially, RW1 himself admitted that Attendance Register is being maintained. Therefore, Tribunal had rightly found the first petitioner is a well established firm and the respondents 2 to 5 are working with them for more than 12 years. If there was no termination, nothing prevented the petitioners from producing the Attendance Register and therefore, it has to be concluded that there was an oral termination or they were not allowed to work from 24.06.2014. Even though there is no finding given by the Tribunal in regard to the termination of the respondents 2 to 5 and there is no direct conclusion reached in writing, it can be culled out from paragraph 8 of the award that there was a termination and the termination is illegal.

6. With regard to the contention that the petitioner was willing to take back the respondents 2 to 5 on 04.03.2015, the respondents 2 to 5 are illiterate workers and they might not have got proper instructions in this regard. No doubt, in the first hearing itself, counter statement has been filed on 04.03.2015, according to take back the respondents 2 to 5, this Court cannot ignore the contention made by the respondents that when the respondents 2 to 5 reported to the duty as per the counter statement made by the petitioners and they were not allowed to work and only on the instructions from the Labour Court only, the petitioners permitted the respondents 2 to 5 to join duty on 17.07.2015. Therefore, this Court is inclined to believe the version made by the learned counsel for the respondents 2 to 5 and therefore, the benefit given by the Tribunal from 24.06.2014 to 17.07.2015 is valid and the finding reached by the Tribunal cannot be set aside. Accordingly, the writ petitions fail.

7. In the result, the writ petitions are dismissed. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-

Assistant Registrar(CO)

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Sub Assistant Registrar

sri

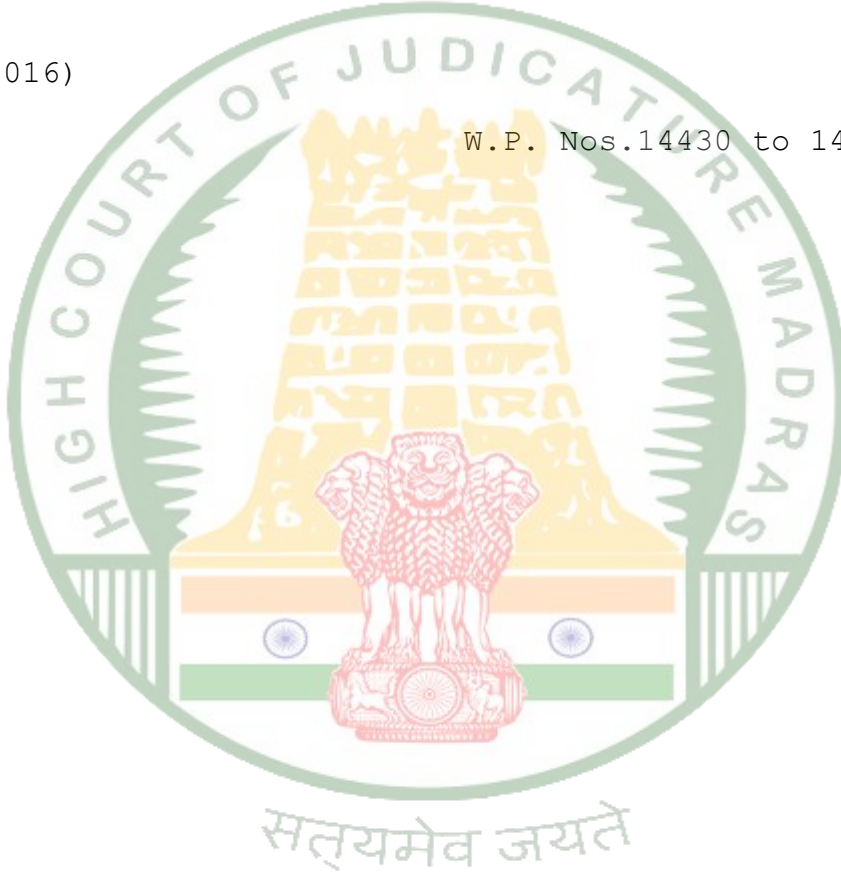
To

The Presiding Officer,
III Additional Labour Court,
Chennai.

+4ccs to Mr.S. Purushothamadosh, Advocate, S.R.No.60303
+1cc to Mr.S. Ravindran, Advocate, S.R.No.59851

SV(CO)
EU(24/11/2016)

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