

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.42908 of 2016

J.Ruthravelu

... Petitioner

-vs-

1. The Presiding Officer
Principal Labour Court
Vellore

2. The Management of
Brakes India Limited
Sholinghur 631 102
Vellore District

3. V.M.Parthasarathy

... Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records relating to the Award dated 01.07.2014 of the first respondent passed in I.D.No.65 of 2013, quash the same and consequently direct the second respondent to reinstate the petitioner with continuity of service, back wages and other attendant benefits.

For Petitioner :: Mr.S.T.Varadarajulu

ORDER

The petitioner, who claimed to have been employed under both the respondents 2 & 3, taking a ground that he was refused employment with effect from 3.1.2011, raised an industrial dispute under Section 2-A(2) of the Industrial Disputes Act, 1947 seeking an order of reinstatement with continuity of service, back wages and all other attendant benefits etc. The first respondent-Labour Court, considering almost all the exhibits, namely, Exs.W1 to W13 along with the evidence adduced by the petitioner as W.W.1, has come to the conclusion that even the bank statement reflecting the wages as produced by the petitioner herein in Ex.W9 also did not appear to show that he was paid by the second respondent Management of Brakes India

Limited. Since Ex.W9 has shown that the petitioner was engaged by Mr.V.M.Parthasarathy, the third respondent, who is a contractor, he was deployed to some other company with whom the third respondent has enrolled as a labour contractor. Further, after examining Ex.W13 produced by the petitioner, it was found that Ex.W13 failed to carry any relevance to the second respondent Management. After recording its findings, the Labour Court has also come to the conclusion that the petitioner himself had voluntarily quit the employment. Moreover, as far as the petitioner is concerned, his pay master being ABI Showatech (I) Ltd., through the third respondent, the Labour Court has rightly observed that the company-ABI Showatech (I) Ltd., should have been impleaded as one of the necessary parties. As the necessary party was not impleaded, the Labour Court has rejected the claim of the petitioner.

2. Learned counsel for the petitioner, assailing the impugned award, submitted that when there was a prayer made by the petitioner before the first respondent-Labour Court that both the respondents 2 & 3 were enjoying the services of the petitioner, hence, a direction ought to have been given to reinstate the petitioner and the relief ought not to have been rejected, is far from acceptance. The reason is that when the petitioner has claimed that he was working under both the respondents 2 & 3, it is highly impossible to issue a direction for reinstatement of the petitioner under both the respondents 2 & 3. Therefore, this Court is not able to find any infirmity with the impugned award. Accordingly, the writ petition fails and it is dismissed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

ss
To

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

+lcc to Mr.S.T.Varadharajulu, Advocate sr.72405

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