

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2016

C O R A M

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P.Nos.9914 & 9995 of 2016 &
WMP Nos.8897 & 8950 of 2016

W.P.No.9914 of 2016

Gowri Metals .. Petitioner
Rep. by its Partner Sripriya Gowrisankar

Vs

- 1 The Director
Industrial Safety and Health
Coimbatore-641 012.
- 2 Vilavai Ramasamy
District Secretary,
Kovai District New Democratic Employees Federation
D.No.137, 1st Floor K.R.R. Complex
Thadagam Salai, Coimbatore-641 108.
- 3 D.Selvaraj
- 4 R.Saravanakumar
- 5 J.Nagaraj
- 6 G.Saravanan
- 7 P.Rathinam .. Respondents

W.P.No.9995 of 2016

Rotaro Engineers Pvt Ltd., .. Petitioner
Rep. by its Director - Sripriya Gowrisankar

Vs

- 1 The Director
Industrial Safety and Health
Coimbatore-641 012.
- 2 Vilavai Ramasamy
District Secretary,
Kovai District New Democratic Employees Federation
D.No.137, 1st Floor K.R.R. Complex
Thadagam Salai, Coimbatore-641 108.

3 S.Maruthasalam
4 A.Palaniappan
5 A.Kesavan
6 C.Vinoth Kumar
7 C.Krishna Moorthy
8 R.Ranjith kumar
9 N.Ganesh
10 V.Rajasekar
11 V.Badrusamy
12 M.Anandha Babu
13 S.Sekar
14 N.K.Moorthy
15 K.Kuppuraj
16 M.Nandha Kumar
17 S.Suresh Kumar ... Respondents

PRAYER IN W.P.9914 of 2016: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, to direct the first respondent to decide the issue whether there was employer-employee relationship between the petitioner and the respondents 3 to 7 in the first instance as a preliminary issue in case No.180/2015.

PRAYER IN W.P.9995 of 2016: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, to direct the first Respondent to decide the issue whether there was employer-employee relationship between the Petitioner and the Respondents 3 to 17 in the first instance as a preliminary issue in Case No.182/2015.

For Petitioners ... Mr.S.Ravindran
(in both W.Ps)

For Respondents ... Mr.R.Rajeswaran - R1
(in both W.Ps) Spl.Govt. Pleader

COMMON ORDER

Heard Mr.S.Ravindran, learned counsel for the petitioners and Mr.R.Rajeswaran, learned Special Government Pleader accepting notice for the first respondent. In the light of the fact that this Court has only followed the earlier order passed by this Court concerning the Group Concern and that order having been passed on 04.09.2015, notice to the respondents 2 to 7 in respect of W.P.No.9914/2016 & respondent 2 to 17 in respect of W.P.No.9995 of 2016, is dispensed with.

2.The petitioners have filed these Writ Petitions, to direct the first respondent to decide the issue as to whether there was employer-employee relationship between the petitioners and the respondents 3 to 6 in respect of W.P.No.9914/2016 & respondent 3 to 17 in respect of W.P.No.9995 of 2016, by the first respondent as a preliminary issue in case Nos. 180 and 182 of 2015.

3.The first respondent is the competent authority to consider the claims under the provisions of the Tamil Nadu Industrial Employment (Conferment of Permanent Status to Workmen) Act, 1981. One of the Group Companies of the petitioner viz. M/s Enbest Pumps India Private Limited, had earlier approached this Court for an identical relief in respect of a Claim Petition filed by the second respondent herein projecting the grievance of the another set of employees, who are similarly placed as that of the respondents 3 to 6 and respondents 3 to 17, in these Writ Petitions.

4.In the said Writ Petition, after hearing the learned counsel for the respondents, including the the learned counsel for the Employees Federation and the employees concerned, the Court disposed of the Writ Petition by issuing the following directions.

"8.This Court, after considering the rival submissions, is proposed to dispose of the writ petition in the following manner:-

(i) The first respondent is directed to frame the issue as to whether employer-employee relationship existed between the petitioner-management and the private respondents 3 to 25 and whether the said private respondents completed 480 days of service in two years, in terms of the provisions of the Tamil Nadu Industrial Employment (Conferment of Permanent Status to Workmen) Act, 1981, and any other issues as may be required in terms of the claim petitions as well as the counter statements, and decide the preliminary issue first and depending upon the decision as to the existence of employer-employee relationship, the first respondent may proceed further and adjudicate the other issues on merits and in accordance with law, and is also directed to complete the entire exercise and pronounce the final orders within a period of two months from the date of receipt of a copy of this order.

(ii) The petitioner-management as well as the private respondents 3 to 25 are directed to extend their maximum cooperation to the first respondent for completion of the said exercise within the time stipulated by this Court. "

5.The grievance of the petitioner/Management is that when identical Claim Petitions were filed by the respondents 2 to 6/17 before the first respondent, the petitioner has produced the copy of the order passed by this Court in W.P.No.25400 of 2015 dated 04.09.2015, referred supra, and requested the first respondent to comply with the same in respect of these two Claim Petitions also viz. Case Nos.180 & 182 of 2015, it is sated that the first respondent was not inclined to accept the same and posted the matter for consideration, as to whether the workmen have completed 480 days of service and the cases are stated to be posted for hearing on 22.03.2016 & 17.03.2016, respectively.

6.In the light of the fact that this Court on an earlier occasion considered the similar issue in respect of the similarly placed employees of a Group Concern of the petitioners whose cases were projected by the very same Employees Federation viz. second respondent herein, it is but appropriate for the first respondent to apply the same direction to the Claim Petitions filed by the other employees of the Group concern.

7.It is submitted that after the order was passed in the earlier Writ Petition, it appears that the first respondent has heard the matter on merits and passed an order, which is subject matter of challenge in a separate Writ Petition.

8.In the light of the above, the first respondent is directed to frame the issue as to whether employer-employee relationship existed between the petitioner-management and the private respondents 2 to 6/17 and whether the said private respondents completed 480 days of service in two years, in terms of the provisions of the Tamil Nadu Industrial Employment (Conferment of Permanent Status to Workmen) Act, 1981, and any other issues as may be required in terms of the claim petitions as well as the counter statements, and decide the preliminary issue first and depending upon the decision as to the existence of employer-employee relationship, the first respondent may proceed further and adjudicate the other issues on merits and in accordance with law, and is also directed to complete the entire exercise and pronounce the final orders within a period of two months from the date of receipt of a copy of this order. Further, the petitioner-management as well as the private respondents 2 to 6/17 are directed to extend their maximum cooperation to the

first respondent for completion of the said exercise within the time stipulated by this Court.

The Writ Petitions are disposed of accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

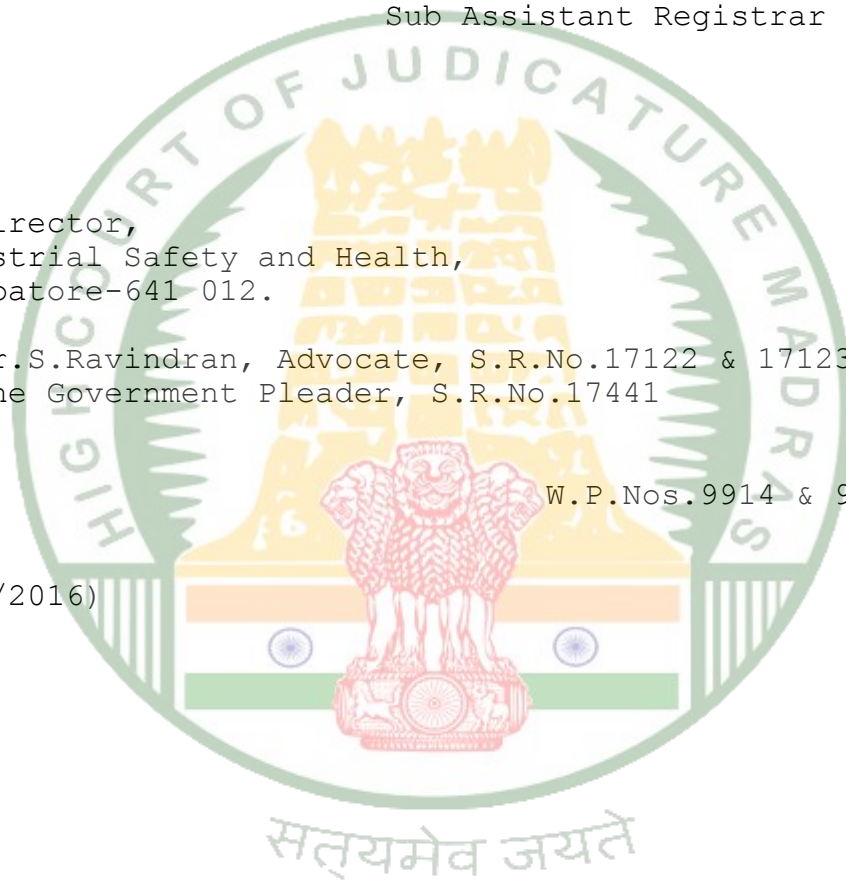
To

1 The Director,
Industrial Safety and Health,
Coimbatore-641 012.

+3cc to Mr.S.Ravindran, Advocate, S.R.No.17122 & 17123
+1cc to the Government Pleader, S.R.No.17441

W.P.Nos.9914 & 9995 of 2016

ev(CO)
srg(28/03/2016)



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