

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.01.2017

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THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Writ Petition No.5087 of 2003 and
W.P.M.P. No.6469 of 2003

The Executive Engineer (Civil),
Mettur Thermal Power Project,
Tamil Nadu Electricity Board,
(Formerly Executive Engineer/Civil),
Division No.7,
Mettur Thermal Power Project,
Mettur Dam.

.. Petitioner

Versus

1.R.Chinnadurai
2.A.N.Shanmugam
3.The Presiding Officer,
Labour Court, Salem.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorari calling for the records of the third respondent/Labour Court relating to its order dated 18.03.2002 passed in C.P. No.52 of 1992 and quash the same as illegal and without jurisdiction.

For Petitioner : No appearance

ORDER

This writ petition has been filed by the Executive Engineer, Tamil Nadu Electricity Board challenging the order dated 18.03.2002 passed by the

Labour Court in C.P. No.52 of 1992 under Section 33(C)(2) of the Industrial Dispute Act.

2.For the sake of convenience, the parties will be referred to by then name.

R.Chinnadurai (first respondent) filed a claim petition before the Labour Court under Section 33(c)(2) against one A.N.Shanmugam of M/s.A.R. & Company and the Executive Engineer (Civil), Tamil Nadu Electricity Board, Mettur Thermal Power Project claiming Rs.3,475/- towards Leave Salary, Notice Pay, Retrenchment Compensation, Bonus and Balance Pay. On notice from the Labour Court, the Tamil Nadu Electricity Board entered appearance and filed their counter contending that R.Chinnadurai was employed by A.N.Shanmugam of M/s.A.R. & Company and not by the TNEB. A.N.Shanmugam filed a counter before the Labour Court submitting that Tamil Nadu Electricity Board had given the contract in respect of certain project in Mettur Thermal Power Plant to a company by name M/s.A.R. & Company and that A.N.Shanmugam was only a consultant for the said company and that he is not the owner of M/s.A.R. & Company.

3.Before the Labour Court, no witness was examined by Chinnadurai and one document was marked. On behalf of A.N.Shanmugam, one

Sathyamoorthi was examined and six documents were marked. No witness was examined on behalf of the Tamil Nadu Electricity Board nor any document marked.

4.The Labour Court, by order dated 18.03.2002, has directed the Tamil Nadu Electricity Board to pay the amount claimed by Chinnadurai and hence, this writ petition has been filed.

5.Notice was served on Chinnadurai and Shanmugam, R1 and R2 in this petition and their names have been printed in the cause list and they have not chosen to appear.

6.This Court carefully perused the records.

7.Admittedly, Chinnadurai had not raised any Industrial Dispute alleging illegal retrenchment. Even in his petition filed under Section 33(C)(2), he has clearly stated that he was working as a Watchman from 27.03.1985 to 20.12.1988 under the contractor of the Tamil Nadu Electricity Board. He has further stated that because the project was completed, his service has been discontinued. Therefore, this is not a case where

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Chinnadurai was illegally retrenched by the contractor. Chinnadurai did not even choose to examine himself as witness.

8.In the light of the admitted facts, the Labour Court ought not to have passed the order impugned directing the Tamil Nadu Electricity Board to make the payment to Chinnadurai as prayed for by him in the claim petition.

9.In the result, the writ petition is allowed and the order dated 18.03.2002 passed by the Labour Court in C.P. No.52 of 1992 is set aside. No costs. Consequently, connected W.P.M.P. is closed.

12.01.2017

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