

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2018

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.569 of 2018

P.Issac Samraj

.. Petitioner

-vs-

1. Ministry of Labour & Employment
rep.by its Under Secretary
Government of India
Shram Sakthi Bhawan, Rafi Marg
New Delhi 110 001

2. The Managing Director & CEO
Exide Life Insurance
3rd Floor, JP Techno Park
No.3/1, Millers Road
Bangalore, Karnataka 560 001

3. The Executive Vice President
Exide Life Insurance
Prince Kushal Tower
Anna Salai
Chennai 600 002

.. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records connected with the impugned order passed by the first respondent in F.No.L-26011/13/2017-IR(M) on 25.08.2017 and quash the same as illegal and not sustainable in law and further direct the respondents to pass order to refer the matter pertaining to the discharge of the petitioner to the Central Government Industrial Tribunal cum Labour Court, Chennai for adjudication.

For Petitioner :: Mr.D.Ponventhan

For Respondents :: Mr.A.Murugan
Central Government
Standing Counsel for R1
ORDER

This writ petition has been directed against the impugned order dated 25.8.2017 passed by the first respondent, rejecting the request of the petitioner to refer his dispute for adjudication before the Central Government Industrial Tribunal cum Labour Court, Chennai, on the ground that the petitioner was

appointed as Assistant Sales Manager drawing a monthly salary of Rs.34,805/-, therefore, he is not a 'workman' within the meaning of Section 2(s) of the Industrial Disputes Act, 1947.

2. Learned counsel for the petitioner, assailing the impugned order, submitted that although the petitioner was originally appointed as Assistant Sales Manager at Nagercoil branch in Kanyakumari District, after rendering nine years and nine months of service, at the relevant point of time, he was receiving a salary of Rs.37,500 per month. Although he was designated as Group Sales Manager with the aforementioned salary, it is nothing but a decorative post and he was only discharging the nature of work being done by a workman. Therefore, the mere designation of the petitioner as Group Sales Manager and the payment of Rs.37,500/- per month cannot go against him to seek his redressal before the Labour Court, he pleaded.

3. But this Court is unable to accept the said contention. The reason is that when the petitioner approached the first respondent with his application dated Nil, he himself has accepted that he joined the services of the Exide Life Insurance (formerly ING Vysya Life Insurance) as Assistant Sales Manager at Nagercoil branch in Kanyakumari District. After rendering nine years and nine months of service in the company, he was paid with the salary of Rs.37,500/- per month at the time of his discharge on 1.3.2017. Lastly, before his discharge, it was claimed by the petitioner in his application that he was appreciated by the company for his dedicated work on many occasions and he was also designated as Group Sales Manager and put under the control of the Branch Manager.

4. In view of the above, when the petitioner was appointed as Assistant Sales Manager at Nagercoil branch in Kanyakumari District and also paid with the monthly salary of Rs.37,500/- at the time of discharge, namely, on 1.3.2017, in my considered opinion, the petitioner cannot be brought within the definition of 'workman' under Section 2(s) of the Industrial Disputes Act, 1947. Therefore, this writ petition is dismissed. However, liberty is given to the petitioner to work out his remedy in the manner known to law. Consequently, W.M.P.No.701 of 2018 is also dismissed. No costs.

-sd/-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Under Secretary to Government of India
Ministry of Labour & Employment
Shram Sakthi Bhawan, Rafi Marg
New Delhi 110 001

2 The Central Government Industrial
Tribunal cum- Labour Court, Chennai.

+1 C.C. to Mr.A.Murugan Advocate SR.NO.3020

+1 C.C. to M/S.S.Arunachalam Associates Advocate SR.NO.2499

W.P.No.569 of 2018

RV (CO)

VS 05.02.2018



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