

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 02.03.2018

Coram

THE HONOURABLE Mr. JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE Mr. JUSTICE P.VELMURUGAN

W.A.No.947 of 2013
and M.P.No.1 of 2013

Vardarajan .. Appellant/Petitioner

Vs.

1. Tamil Nadu Synthetic Gem Cutting
Labour Welfare and Protection Association
Rep. by its General Secretary
K.Chandrasekar
No.15B, Kalpattarai Street
Edamalaipatti Pudur
Tiruchirapalli 620 012.
2. The Deputy Commissioner of Labour
Tiruchirapalli. .. Respondents/Petitioner
1st Respondent

Writ Appeal filed under Clause 15 of Letters Patent to set-aside the order dated 21.02.2013 made in W.P.No.20850 of 2004 on the file of this Court.

W.P.No.20850 of 2004:-

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified mandamus to call for the records in M.W.27 of 1999 dated 26.08.2003 passed by the first respondent, quash the same and direct the first respondent to pay the difference in wages as per the Notification in G.O.2(D) NO.22 dated 11.06.1993 and G.O.(2D) No.11 dated 18.03.1996.

For Appellant : Mr.M.Rajaraman

For R1 : No appearance

For R2 : Mrs.A.Sri Jayanthi
Special Government Pleader

J U D G M E N T

[Judgment of the Court was delivered by K.K.SASIDHARAN, J.]

The first respondent filed a claim petition before the Deputy Commissioner of Labour, Trichy, on behalf of 25 workers on the ground that they

were employed by the appellant and wages were not paid. The Association contended that the concerned employees were not given the minimum wages which they were entitled as per the notifications issued by the Central Government under the Minimum Wages Act.

2. The Deputy Commissioner of Labour, by order dated 26 August, 2003, rejected the claim petition on two grounds, the first being maintainability of the claim petition at the instance of the Association and the second being the nature of the employment of the workers.

3. The first respondent filed a writ petition before the writ court in W.P.No.20850 of 2004 challenging the order dated 26 August, 2003 on the file of the second respondent.

4. The learned Single Judge while allowing the writ petition made an observation that the finding given by the Deputy Commissioner of Labour with regard to maintainability of the claim petition is erroneous in law. Thereafter, in paragraph 8 of the order, the learned Single Judge directed the Deputy Commissioner of Labour to decide the question of maintainability of the

claim petition. Feeling aggrieved by the said order, the appellant has come up with this intra court appeal.

5. We have heard the learned counsel for the appellant and the learned Special Government Pleader on behalf of the second respondent. None appeared on behalf of the first respondent.

6. The claim petition filed by the first respondent for and on behalf of the individual workers was rejected by the Deputy Commissioner of Labour on the ground that the Association is incompetent to represent the workers. The second respondent has also given a finding that there is no employer and employee relationship between the workers and the appellant.

7. The learned Single Judge set aside the finding with regard to the maintainability of the claim petition at the

instance of the Association. The order passed by the learned Single Judge does not contain any indication as to how such a finding was recorded. Moreover, in paragraph 8 of the very same order, the learned Single Judge once again directed the second respondent to decide the issue regarding maintainability of the claim petition. The appellant is therefore, justified in his contention that reasons were not given with regard to the finding with respect to the maintainability of the claim petition. We are, therefore, of the view that the appellant must succeed.

8. The order dated 21 February, 2013 is set aside. The writ petition in W.P.No.20850 of 2004 is disposed of with liberty to the individual workman to file individual claim petitions before the second respondent. In case any such claim petitions are filed within a period of three months from the date of receipt of a copy of this judgment, the same shall be entertained by the second respondent notwithstanding the delay, in view of the factum of the pendency of the matter before this Court right from 2004. The attempt of the second respondent should be to decide the matter on merits and in accordance with law.

The intra court appeal is disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

gms
To

1. The General Secretary
Tamil Nadu Synthetic Gem Cutting
Labour Welfare and Protection Association
No.15B, Kalpattarai Street
Edamalaipatti Pudur
Tiruchirapalli 620 012.
2. The Deputy Commissioner of Labour
Tiruchirapalli.

+1cc to Mr.M.Rajaraman, Advocate, S.R.No.16217
+1cc to the Government Pleader, S.R.No.16706

W.A.No.947 of 2013

KK(CO)
CS/03/04/18