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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Dated : 28.02.2018
CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)Nos.13747 to 13749 of 2016
and
WMP(MD)Nos.10253 to 10255 of 2016

The Superintending Engineer,
Tuticorin Electricity Distribution Circle,
Tamil Nadu Electricity Board, (TANGEDCO),
Tuticorin – 628 002. ... Petitioner in all writ petitions

Vs.

Joint Commissioner of Labour,
Appellate Authority under
Payment of Gratuity,
Madurai. ....1st respondent in all writ petitions

A.Nambirajan ...2nd respondent in WP(MD)No.13747 of 2016

K.Shanmugam ...2nd respondent in WP(MD)No.13748 of 2016

S.Abdul Wahab ...2nd respondent in WP(MD)No.13749 of 2016

Proprietor,
Mani Enterprises,
68, Devipuram,
Tuticorin – 628 001. ...3rd respondent in WP(MD)No.13747 of 2016

Proprietor,
Lakshmi Enterprises,
106, Selvanayakapuram,
Tuticorin – 628 002. ....3rd respondent in WP(MD)No.13748 of 2016

Naynar Mohamed,
Contractor,
23, Nambalvar Street,
Tuticorin – 628 001. ....3rd respondent in WP(MD)No.13749 of 2016

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COMMON PRAYER : Writ Petitions are filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records in pursuant to the impugned orders passed by the first respondent in P.G.A.Nos.11/2013, 12/2013 and 13/2013 respectively dated 07.08.2015 and quash the same.

For Petitioner : Mrs.S.Srimathy,

For Respondents : No appearance for R1 & R2 in all writ petitions

COMMON ORDER

In all these three petitions, the respective second respondents were originally contract labours and later became direct employees of the writ petitioner. They have all retired from service. They were settled their gratuity amounts. Not satisfied with the same, they took out applications before the controlling authority contending that the gratuity amount payable to them for the period when they worked as contract labour should also be paid by the management. The controlling authority dismissed the petitions. However, the appellate authority under the Payment of Gratuity Act directed that the workmen should be paid the differential gratuity dues. Questioning the same, these writ petitions have been filed.

2.It is not in dispute that for the period in question, the writ petitioner was only the principal employer. The third respondents in these writ petitions were actually contractors. Therefore, the liability to settle the gratuity dues is to be fastened entirely on the third respondent. The principal employer will not have the vicarious liability to satisfy the order in question.

3.In this view of the matter, the orders impugned in these writ petitions are modified and it is made clear that the petitioner is exonerated of all liability to satisfy the orders impugned in these writ petitions. The second respondent in these writ petitions must enforce the orders impugned in these writ petitions only against the third respondent herein, namely the contractor. These writ petitions are allowed accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-II)

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Sub Assistant Registrar

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To

Joint Commissioner of Labour,
Appellate Authority under
Payment of Gratuity,
Madurai.

+1CC to Mr.S.M.S.JOHNNY BASHA, Advocate, SR.No.52064

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and
WMP(MD)Nos.10253 to 10255 of 2016
28.02.2018

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