

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 20.11.2019
CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
W.P.No.11937 to 11943 of 2013

and
MP.Nos.1, 1, 1, 1, 1, 1 and 1 of 2013
W.P.No.11937 of 2013

R. Dhandapani

..Petitioner

vs

1. Presiding Officer,
III Additional Labour Court,
Chennai- 104 : 1st Respondent in All Wps.

2. N.Rajendran : 2nd Respondent in WP.11937/2013
3. Theodore Jacob : 2nd Respondent in WP.11938/2013
4. K.Parthasarathay : 2nd Respondent in WP.11939/2013
5. P.Rajendran : 2nd Respondent in WP.11940/2013
6. B.Sethuraman : 2nd Respondent in WP.11941/2013
7. S.Ramachandran : 2nd Respondent in WP.11942/2013
8. J.Vijayalakshmi : 2nd Respondent in WP.11943/2013

3. Anaimalais Agencies (Madras),
Old No.28, New No.37,
Neval Hospital Road,
Periyamed, Chennai- 600 003.

4. Tmt. D. Thilagarathinam

5. Thiru. A. Shanmugasundaram : 3 to 5 Respondents in all Wps.

Prayer in W.P.No.11937 of 2013: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorari, or any other appropriate writ order or direction in the nature of a writ, calling for the records pertaining to the award in C.P.Nos.365,366,367,370,369,368 and 371 of 2002 dated 24.01.2012 passed by the III Additional Labour Court, Chennai, the first respondent herein and quash the said award dated 24.01.2002.(Respectively in Wps.11937 to 11943 of 2013)

For Petitioner : Ms. M.Meenatchi
for M/s. S. Periyasami for all WPs.

For Respondents : R1- Labour Court for all WPs.
R2 to R5- No appearance for all WPs.

O R D E R

The order dated 24.01.2012 passed in C.P.Nos.365,366,367,370,369,368 and 371 of 2002 is under challenge in this present Writ Petition.

W.P.No.11937 of 2013

2. The petitioner states that he is one of the partners of the third respondent firm. The said firm was selling spare parts and lubricants for Yamaha two wheelers and also running a service station from 3.9.1993 at Neval Hospital Road, Periyamet, Chennai.

3. The third respondent management sustained huge financial loss and the company itself was closed with effect from October 2001 and closure notice was also sent to the employees.

4. The second respondent employee filed a Claim Petition before the first respondent under Section 33 C (2) of the Industrial Disputes Act claiming compensation. The Labour Court adjudicated the issues and directed the management to pay the compensation.

5. The learned counsel appearing on behalf of the writ petitioner mainly contended that the third respondent commenced its operation only with effect from 03.09.1993. However, the employee made out a claim from the year 1985 onwards. Such a claim is based on false set of facts and the services of the employee from the year 1985 is no way connected with the third respondent company. We worked in some other company and that company has no relationship or connection with the third respondent which commenced its operation with effect from 03.09.1913.

6. The company was closed in the year 2001. Its factual details were not adjudicated by the Labour Court, contrarily the very statement in the Claim Petition that the employee is entitled for compensation from 1985 was accepted as it is. Thus, the petitioner is constrained to file the present Writ Petition.

7. This Court is of the opinion that when a specific averment is made in the affidavits stating that the third respondent commenced its operation with effect from 03.09.1993 and the Labour Court granted compensation to the employees with effect from 1985, thus factual details are to be adjudicated by verifying the documents and through evidences.

8. Under these circumstances, the cases are to be remitted back for fresh consideration, in view of the fact that the basic facts are disputed by the writ petitioner. Accordingly the order dated 24.01.2012 passed in C.P.Nos.365,366,367,370,369,368 and 371 of 2002, is quashed and the first respondent Labour Court is directed to restore the Claim Petitions on file and re-adjudicate the same after affording opportunity to all the parties concerned and dispose of the Claim Petitions as expeditiously as possible.

9. With these directions, the Writ Petitions stand allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar

mrn

To

1. The Presiding Officer,
III Additional Labour Court,
Chennai- 104.

+1cc to Mr.P.Anbarasan, Advocate, SR.No.96873.

W.P.No.11937 to 11943 of 2013
and

MP.Nos.1, 1, 1, 1, 1, 1 and 1 of 2013
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CA (CO)
CSR(02/01/2020)

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