

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.NO.16255 OF 2011

M.Mani

..Petitioner

Vs.

1. The Presiding Officer,
Labour Court, Salem.
2. The Management,
Southern Iron and Steel Company,
Pottaneri, Mecheri,
Salem - 636 453

..Respondents

Prayer :

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to I.D.No.106/2002 and quash the impugned Award dated 08.02.2007 passed by the first respondent dismissing the same and further direct the second respondent herein to reinstate the petitioner in service with back wages, continuity of service and with all other attendant benefits.

For Petitioner : Mr.M.D.MOHD.Nazarullah

For Respondents : R1 -- Labour Court
R2 -- M/s.Rita chandrasekar
For M/s.Aiyar and Dolia

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O R D E R

The Award dated 08.02.2007 passed by the 1st respondent in I.D.No.106/2002 is under challenge in the present writ petition.

2. The petitioner states that he joined in the services of the 2nd respondent Management as Driver on 11.09.1996 and he worked continuously without any break in service.

3. The grievances of the writ petitioner was that he was orally terminated from service on 11.09.2001 and he was drawing the monthly salary of Rs.2,500/-.

4. The learned counsel appearing on behalf of the writ petitioner states that no notice was issued nor an enquiry was conducted before discharging the services of the writ petitioner. He was employed for about 5 years and therefore, the non compliance of the provisions of the Industrial Disputes Act would vitiate the entire termination order and accordingly, raised an dispute in I.D.No.106 of 2002 under Section 2A(2) of the Industrial Disputes Act. The Labour Court rejected the Industrial Dispute mainly on the ground that the petitioner had not established that he was an employee, engaged by the 2nd respondent Management. The petitioner has no filed even a single document to prove that he was appointed by the 2nd respondent or his services are utilized by the company authorities and to made a finding in this regard, the industrial dispute is raised.

5. The learned counsel appearing on behalf of the 2nd respondent Management disputed the contentions by stating that the petitioner joined as a Driver to the Senior General Manager as his personal Driver and he was engaged by the Senior General Manager in his personal capacity and not as an employee of the 2nd respondent Management. The petitioner was never engaged with reference to the duties and responsibilities with the company. The Senior General Manager, who engaged the writ petitioner as a Driver, resigned from the Post on 11.09.2001 and thereafter, the writ petitioner had left the job. After the resignation of the Senior General Manger from the 2nd respondent Company, the writ petitioner raised the industrial dispute in I.D.No.106/2002. The question of non compliance of the provisions of the Industrial Dispute Act would not arise in this case as the writ petitioner was not at all the employee of the 2nd respondent Management. The 2nd respondent never issued any appointment order in favour of the writ petitioner nor engaged on temporary basis at any point of time, the writ petitioner also had not submitted any evidence to establish that he was engaged by the 2nd respondent company.

6. At the outset, it is pleaded that the writ petitioner was engaged by the Former Senior General Manager of the 2nd respondent company in his personal capacity to drive his Car.

7. The Labour Court passed an Award on 08.02.2007 and the writ petition is filed on 6th July 2011, after a lapse of four years from the date of passing of the Award and therefore, the writ petition is liable to be rejected even on the ground of laches.

8. This Court is of an opinion that perusal of the findings of the Award, more specifically, in paragraph 9, reveals that the writ petitioner was not appointed by the 2nd respondent Management. The Labour Court made a categorical finding that the writ petitioner has not produced any document to establish that he was an employee of the 2nd respondent. Contrarily, he was engaged by the Former Senior General Manager as his personal Driver and therefore, the writ petitioner is not entitled for any relief under the Industrial Disputes Act as against the 2nd respondent Management. The findings of the Award is unambiguous that the writ petitioner has not produced any documents to establish his employment with the 2nd respondent Management and therefore, this Court is of an opinion that the employer-employee relationship did not exists to the 2nd respondent Management.

9. This being the findings of the Labour Court, there is no perversity or error in respect of the Award passed and accordingly, the Award dated 08.02.2007 passed by the 1st respondent in I.D.No.106/2002 stands confirmed and the writ petition stands dismissed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Presiding Officer,
Labour Court, Salem.

+1cc to M/s.K.V.Shanmuganathan, Advocate, S.R.No.96792

+1cc to M/s.Aiyar and Dolia, Advocate, S.R.No.97686

W.P.No.16255 of 2011

RSV(CO)
CS/30/12/2019

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