

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2019

CORAM

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

W.P.No.18123 of 2004
and
W.P.M.P.No.21580 of 2004

M/s.Ace Glass Containers Limited,
Rep.by its Chief General Manager
Thondamanatham,
Vazhudavoor S.O.
Pondicherry - 605 502 ...Petitioner

Vs.

1.The Government of Pondicherry,
Rep.by the Secretary,
Labour Department
Pondicherry - 605 001

2.The Presiding Officer,
Labour Court,
Pondicherry.

3.Pondicherry State Trade Union
of Owens Bilt Ltd.,
Rep.by its Secretary,
20, Car Street, Tondamanatham
(Via.) Vazhudavur,
Pondicherry - 605 502

4.N.Tamilarasan
5.M.Manohar
6.M.Mani Contract
7.B.Mahendran
8.K.Chellapandian
9.R.Ravi

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records connected with G.O.Rt.No.102/Lab/AIL/J/2003 dated 23.07.2003 on the file of the 1st Respondent and to quash the same and thereby render justice.

For Petitioner : Mr.Sai Prasad
For M/s.Sai Raaj Associates

For Respondents : R1 - Mr.A.V.Ramalingam
Additional Government Pleader

R2 - Labour Court

R3 - Mr.K.Ramkumar

R4 - No appearance

O R D E R

The reference order made by the 1st respondent in G.O.Rt.No.102/Lab/AIL/J/2003 dated 23.07.2003 is under challenge in the present writ petition.

2. The learned counsel appearing on behalf of the writ petitioner mainly contended that the petitioner company is a Principal employer and the workmen engaged by a Private contractor raised a dispute regarding their non-employment. The Government passed an order of reference, enabling the Labour Court to adjudicate the issue, Whether the alleged non-employment of 90 workers are justified or not and if not justified, what remedies they are entitled to?

3. The learned counsel for the writ petitioner states that the impugned order of reference is passed as if the writ petitioner company is the employer of the workmen. The learned counsel for the writ petitioner reiterated that they are only the Principal Employer and those workmen terminated, were the employees of the Contractor. However, all these disputed facts are to be adjudicated with reference to the original documents as well as evidences to be produced by the Labour Court by the respective parties. Contrarily, the Hon'ble High Court, under Article 226 of the Constitution of India, cannot adjudicate whether the workmen are the direct employees of the writ petitioner company or the labourers engaged by a private contractor, wherein the writ petitioner is a Principal employer. These all are the disputed facts. Thus, the parties are entitled to adjudicate the issues based on the reference order before the Labour Court. However, the fact remains that the 90 workers were terminated by the employer concerned, who is the employer, is the question to be decided by the Labour Court and as per the petitioner, they are the Principal employer. However, these facts are to be adjudicated in the dispute, which is to be proceeded with based on the reference order passed by the Government.

4. This Court is of the considered opinion that the scope of quashing the reference at this juncture, is undoubtedly limited. In all such issues, an elaborate adjudication is required to find out the truth behind the alleged termination or otherwise. The Management has to establish, Whether the workmen were directly engaged or engaged through the Private

Contractors. Only, if those facts are found out, the issues cannot be settled and appropriate remedy cannot be granted to the aggrieved persons.

5. This being the principles to be followed, the writ petitioner is at liberty to place the facts and circumstances before the Labour Court and the respective parties are also at liberty to submit their documents to establish their case before the Labour Court. This being the factum, the writ petitioner has not made out any acceptable legal ground for the purpose of assailing the order passed by the Government.

6. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary,
Government of Pondicherry,
Labour Department
Pondicherry - 605 001
- 2.The Presiding Officer,
Labour Court,
Pondicherry.
- 3.The Secretary,
Pondicherry State Trade Union
of Owens Bilt Ltd.,
20, Car Street, Tondamanatham
(Via.) Vazhudavur,
Pondicherry - 605 502

+1cc to Mr.Sai raj associates , Advocate SR.No. 88803
+1cc to Mr.Sudalaikannu , Advocate SR.No. 88641
+1 cc to Government Pleader Sr.No. 88499

W.P.No.18123 of 2004

A.SK(28/11/2019)