

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.11.2019

CORAM

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

W.P.Nos.21204 of 2012 and 5778 of 2013
and

WMP.Nos.1 of 2012 and 1 of 2013

1. D. Kannan

...Petitioner in WP.No.21204 of 2012

and R2 in W.P.No.5778 of 2013

2.The Management of
Greaves Cotton Limited
Southern Regional Office
No.26, Second Line Beach
Chennai 600 001
(now at ''Lakshmi Chambers''
No.30, Anna Salai, Little Mount
Saidapet, Chennai 600 015)
represented by its Sr. Manager P & A

...Petitioner in WP.No.5778 of 2013

and R1 in W.P.No.21204 of 2012

vs

1. The III Additional Labour Court
City Civil Court Buildings,
Chennai 600 104.

...R2 in 21204 of 2012

2. The President Officer
III Additional Labour Court
Chennai.

...R1 in 5778 of 2013

Prayer in W.P.No.21204 of 2012: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ or order or direction more in the nature of a writ of Certiorarified Mandamus calling for the records from the III Additional Labour Court, Chennai for quashing the award dated 19.01.2011 passed in I.D.No.494 of 2004 and subsequently direct the 2nd respondent management to reinstate the writ petitioner Mr.Kannan in duty with all back wages, continuity of service and other alternative benefits.

Prayer in W.P.No.5778 of 2013: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified calling for the records of the first respondent in I.D.No.494 of 2004 and quash its Award dated 19.01.2011 in so far as it grants a compensation of Rs.25,000/- tot the 2nd respondent.

W.P.No.21204 of 2012

For Petitioner : No appearance
For Respondent : Mr. Anand Gopalan
for M/s. T.S. Gopalan & Co. for R1
R2- Labour Court

W.P.No.5778 of 2013

For petitioner : Mr. Anand Gopalan
for M/s. T.S. Gopalan & Co. for R1
For Respondents: R1- Labour Court
R2- No appearance

C O M M O N O R D E R

The award dated 19.01.2011 passed in I.D.No.494 of 2004 is under challenge in this present Writ Petitions.

W.P.No.5778 of 2013.

2. The management is Greaves Cotton Limited. The petitioner company is engaged in the manufacture/marketing of engineering products.

3. The learned counsel for the writ petitioner management mainly contended that the second respondent was not at all a employee of the petitioner company. He was a freelancer doing some courier service to the writ petitioner and at no point of time, the second respondent was appointed or engaged for performing the jobs of the company. There is no employer and employee relationship existed between the writ petitioner and the second respondent in order to take undue advantage of the courier service rendered by the second respondent, he raised an industrial dispute before the Labour Court in I.D.No.494 of 2004

for reinstatement and backwages by pleading as if he was terminated by the writ petitioner management.

4. It is further contended by the writ petitioner management that there was no employer and employee relationship and no appointment order was issued nor respondent was engaged by the writ petitioner management. Thus the industrial dispute raised by the second respondent is not maintainable and all such contentions were raised before the Labour Court and the Labour Court also rightly considered all these materials produced by the Company before the Labour Court.

5. In paragraph 20 of the Award, the Labour Court made a categorical finding that the second respondent was not an employee of the writ petitioner management and therefore the second respondent is not entitled for any relief from the writ petitioner. Based on the evidence and the documents produced before the Labour Court, it arrived at a conclusion that he was doing some courier service to the writ petitioner management and therefore the second respondent is not entitled for any relief. However, the Labour Court on humanitarian grounds awarded the compensation of Rs.25,000/-. The said award was passed on humanitarian grounds, considering the fact that the second respondent was doing courier service for about 14 years to the writ petitioner management.

6. This court is of the considered opinion that such a finding cannot be considered as perverse. The contentions of the writ petitioner management which was accepted regarding the employer and employee relationship, the Labour Court rightly held that the second respondent is not entitled for any relief as sought for in the claim petition, however the compensation amount of Rs.25,000/- was granted on humanitarian grounds. Under these circumstances, this Court is not inclined to interfere with the award of the Labour Court and no relief was granted to the second respondent with reference to the claims made in the dispute.

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7. Accordingly, the award passed by the Labour Court dated 19.01.2011 in I.D.No.494 of 2004 is confirmed and the Writ Petition stands dismissed.

W.P.No.21204 of 2012

8. The workman Mr. D.Kannan also filed a Writ Petition in W.P.No.21204 of 2012 to quash the award dated 19.01.2011 passed in ID.No.494 of 2004. In view of the fact that the award of the Labour Court is confirmed by this Court in W.P.No.5778 of 2012, writ petitioner in this Writ Petition is not entitled for any relief and accordingly the Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The President Officer
III Additional Labour Court
Chennai.

+1cc to M/s.T.S.Gopalan & Co., Advocate Sr.96271

W.P.Nos.21204 of 2012 and 5778 of 2013
and
WMP.Nos.1 of 2012 and 1 of 2013

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srg 31/12/2019

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