

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.12.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.Nos.5533 & 5534 of 2012

and

M.P.Nos.2 & 2 of 2012

Jupiter Knitting Company
rep. by its Manager,
Human Resources,
1-J-24, Jupiter Avenue,
Anupparpalayam Post,
Tiruppur - 641 652

... Petitioner in both the W.Ps.

vs.

1.The Joint Commissioner of Labour,
Balasundaram Road,
Coimbatore - 641 018

2.The Assistant Commissioner of Labour,
Balasundaram Road,
Coimbatore - 641 018.

... Respondents 1 & 2 in
both the W.Ps.

3. A.Sathishkumar

... 3rd Respondent in W.P.5533/2012

4. M.Rajan

... 3rd Respondent in W.P.5534/2012

Writ Petitions filed under Article 226 of the Constitution of India praying to issue Writ of Certiorari to call for the concerned records from the 1st and 2nd respondents, quash the order of the 1st respondent in P.G.Appeal Case No.13/2011 & P.G.Appeal Case No.14/2011 dated 29.08.2011 and the order of the 2nd respondent dated 03.06.2010 in Payment of Gratuity Case No.GA 376/2008 & Gratuity Case No.GA 377/2008 respectively as illegal, arbitrary and contrary to law.

For Petitioner : Mr.Balan Haridas

For Respondents : Ms.M.Lalitha
Government Advocate for R1 & R2.
Mr.S.Saravanan for R3

C O M M O N O R D E R

Both these Writ Petitions are filed challenging the orders of the 1st and 2nd respondent, wherein and whereby, the gratuity application filed by the 3rd respondent herein was allowed and the petitioner Management was directed to pay the gratuity from the date it becomes due and payable to the 3rd respondent.

2. Heard the learned counsel for the petitioner Mr. Balan Haridas and the learned counsel appearing for the 3rd respondents.

3. The case of the petitioner in short is as follows:

The 3rd respondent in each writ petition was employed as casual employee and he did not work continuously at any point of time. The 3rd respondent did not work for 240 days continuously in 12 calendar months. The 3rd respondent filed the Gratuity Application and claimed as if he had been working continuously. There is no employer-employee relationship. The 3rd respondent did not file any material before the 2nd respondent to show that he had continuously worked and that he is eligible to receive gratuity. The 2nd respondent allowed the application and directed the petitioner Management to pay the sum referred to in the said order. Challenging the said order, the petitioner preferred appeal before the 1st respondent, who in turn, dismissed the appeal and confirmed the order of the 2nd respondent on the reason that the petitioner did not produce the relevant records to disprove the contentions of the 3rd respondent.

4. Perusal of the concurrent findings rendered by the respondents 1 and 2 would show that the 3rd respondent in each case marked the Salary Certificate, award of the Lok Adalat, order passed by the Labour Court under Exs.P1, P4 and P6 respectively in support of their contentions that they are the employees of the petitioner herein. Though the petitioner claimed that the 3rd respondent in each case are only casual labourers and had not worked for continuous period of 240 days, they did not produce the required documents namely, the Salary ledger, attendance register before the respondents to disprove the contention of the 3rd respondent in each case. In other words, if the Management contends that the respondent employee has not been employed continuously for 240 days, nothing prevented them from placing the salary register and attendance register to disprove the contention of the 3rd respondent. The respondents 1 and 2 have taken note of the failure on the part of the Management in not producing those material documents and thus, came to the conclusion rightly and granted the relief to the 3rd respondent.

5. Going by the factual finding rendered by the respondents 1 and 2 as stated supra, I find no grounds to interfere with the same. Accordingly, these writ petitions fail and the same are dismissed. It is stated by the learned counsel for the petitioner that the amount claimed by the 3rd respondent in each case has already been deposited before the 2nd respondent. Therefore, the 3rd respondent in each case are entitled to receive the amount so deposited by the petitioner in view of the order passed in these writ petitions. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

vsi

To

- 1.The Joint Commissioner of Labour,
Balasundaram Road,
Coimbatore - 641 018
- 2.The Assistant Commissioner of Labour,
Balasundaram Road,
Coimbatore - 641 018.

+2cc to Mr.S.Saravanan, Advocate SR.100778

+1cc to the Government Pleader SR.101151

W.P.Nos.5533 & 5534 of 2012

SS(CO)
CB(27/01/2020)

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