



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 07.11.2019
CORAM:

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

W.P.(MD).No.11115 of 2010
and M.P.(MD).No.1 of 2010

U.Chellappa

... Petitioner

Vs.

1.The Labour Judge,
Labour Court, Tirunelveli.

2.A.Balamurugan

3.I.Thomas

4.D.Murugan

5.S.Muthiah

6.Muthupandi

7.Vykattan

8.A.Somu

9.S.Chinnapandi

10.N.Chandra Raja

11.R.Durai

12.S.Arumugam

13.N.Murugan

14.V.Anbu Madasamy

15.Samuthram

16.S.Mariappan

17.S.Palpandian

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorari, calling for the records relating to the proceedings in disputes No.1 of 2007 to 16 of 2007, dated 30.01.2010, on the file of the 1st respondent and quash the same in so far as the direction to pay a compensation of Rs.5,000/- to each of the respondents 2 to 17.

For Petitioner : Mr.I.Robert Chandrakumar for
for Mr.G.Prabhu Rajadurai

For Respondents : Mr.K.Hema Karthikeyan for R2 to R17

ORDER

This writ petition is filed for issuance of writ of Certiorari to quash the award of first respondent dated 30.01.2010 in I.D.No.1 to 16 of 2007 insofar as a direction to the petitioner to pay a compensation of Rs.5,000/- to each of the respondents 2 to 17.



2.The petitioner is a person doing wholesale business in fruits and vegetables in Door No.53, Kannamman Kovil street, Tirunelveli Junction. Since the petitioner deals with the wholesale business, he has to engage Loadman on daily basis for unloading the commodities, which are brought to his place. The respondents 2 to 17 in these writ petitions are stated to be members of a Trade union. However, the particulars of the trade union is not given in the affidavit. Since the association demanded the petitioner to engage loadman only from their association at the rate fixed by them, it is stated that the petitioner was constrained to file a suit in O.S.No.253 of 2006 restraining the union and his members from interfering with the petitioner's business. The said suit appears to be decreed and the appeal filed by the union in A.S.No.44 of 2008 before the Sub Court, Tirunelveli and thereafter Second Appeal in S.A.No.284 of 2009 before this Court were also dismissed.

3.It was thereafter each one of the respondents 2 to 17 raised the industrial disputes in I.D.No.1 of 2007 to 16 of 2007 alleging that there was employee-employer relationship between the petitioner and the respondents and that the respondents 2 to 17 who worked for the petitioner should be reinstated with backwages. The Labour Court after recording a finding that there was no contractual relationship between the respondents 2 to 17 and petitioner as employer-employee, giving peculiar reasons, directed the petitioner to pay a sum of Rs.5,000/- to each of the respondents 2 to 17 herein on the ground that the petitioner cannot illegally refused to engage respondents 2 to 17 as daily coolies. Challenging the award of Labour Court in I.D.Nos.1 to 16 of 2007, the above writ petition is filed.

4.The learned counsel appearing for the petitioner submitted that the Labour Court after rendering a finding that there was no employee-employer relationship ought to have dismissed the petitions in I.D.Nos.1 to 16 of 2007. It is further stated that the Labour Court has no power or authority to determine any issue which was not referred to or incidental. It is stated that there was no privity of contract between the petitioner and any of the respondents. Having regard to the peculiar circumstances, under which the respondents filed the petition, the Labour Court has exceeded its jurisdiction and directed the petitioner to pay a sum of Rs.5,000/- as compensation. The Labour Court has found that respondents 2 to 16 are not regular employees of the petitioner. The Labour court specifically given a finding that there is no employee-employer relationship between the petitioner and respondents 2 to 17. However, as if the dispute raised before the Labour Court is a public interest litigation, the Labour Court proceeded to discuss the rights of individual respondents as if, the petitioner is under a legal obligation to give employment to the respondents.



5.It is in the said circumstances, this Court has no hesitation to hold that the award of the Labour Court is self contradictory. Learned counsel for the respondent is unable to substantiate that the findings of the Labour Court are perverse or irregular on any legal ground.

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6.The learned counsel for the respondent however raised a preliminary objection as to the maintainability of a Single writ petition challenging 16 awards of Labour Court in I.D.Nos.1 to 16 of 2007. Each award gives rise to an independent cause of action. Even though the petitioner is the respondent in all the cases, the petitioner is aggrieved by each award of the Labour Court and hence filing of Single writ petition against all the awards of the Labour Court is improper. Considering the fact that this writ petition is filed in 2010 and the petitioner is entitled to the relief not only on legal grounds, but also by applying equitable principles, this Court wants to show some lenience.

7.Hence, the above writ petition is allowed and the award of the Labour Court, Tirunelveli in I.D.Nos.1 to 16 of 2007 are set aside. The petitioner is directed to pay a sum of Rs.5,000/- to Legal Services Authority within two weeks from the date of receipt of a copy of this order. No order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

TM

To

1.The Labour Judge, Labour Court, Tirunelveli.

Copy to:

The Officer In-charge,
Legal Services Authority,
Madurai Bench of Madras High court, Madurai

+1 CC to Mr.G.PRABHU RAJADURAI, Advocate (SR-96897[F] dated 08/11/2019)

+1 CC to Mr.K.HEMAKARTHIKEYAN, Advocate (SR-97129[F] dated 08/11/2019)

W.P. (MD) .No.11115 of 2010

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