

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 5/2/2020

C O R A M

THE HON'BLE MR.A.P.SAHI, CHIEF JUSTICE

a n d

THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

Writ Appeal Nos.1162 to 1173 of 2011

W.A.No.1162 of 2011

The Management
Tamil Nadu Fisheries Development Corporation Ltd
rep. By its Managing Director
Having Office at No.485, MTB Building
6th Floor, TNHB Complex
Nandanam
Chennai 35. ... Appellant/ Petitioner

Vs

1. The Presiding Officer
First Additional Labour Court
City Civil Court Compound
Chennai. ...(R1 in all)
2. D. Padmanabhan ...(R2 in WA.1162/11)
- C.P.Pandian ...(R2 in WA.1163/11)
- P.Munusamy ...(R2 in WA.1164/11)
- T.Lawrance ...(R2 in WA.1165/11)
- P.Rajagopal ...(R2 in WA.1166/11)
- V.Sundaram ...(R2 in WA.1167/11)
- M.Arumugam ...(R2 in WA.1168/11)
- C.Ramalingam ...(R2 in WA.1169/11)
- M.Govindasamy ...(R2 in WA.1170/11)
- M.Gandhi ...(R2 in WA.1171/11)
- S.Sivaramakrishnan ...(R2 in WA.1172/11)
- P.Anbu ...(R2 in WA.1173/11)

Appeals filed under Clause 15 of the Letters Patent against the order dated 23/7/2010, made in W.P.Nos.36625 to 36627 of 2002 and 224 to 232 of 2003.

Prayer in W.P.Nos.36625 to 36627 of 2002 and 224 to 232 of 2003:

Writ Petition filed under Article 226 of the Constitution of India Praying for issuance of a Writ of Ceritorari calling for the records of the first respondent in respect of the award dated 14.02.2002 passed in IT.NOs.184,186, 185,183, 187,

188,189,190,191,192,193,194/96 respectively and quash the same.

For appellant ... M/s.R.Master Ganesh

For respondents ... R.1 - Labour Court

Mr.K.M.Ramesh and
Mr.S.Ayyadurai
for R.2.

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C O M M O N J U D G M E N T

(Delivered by the Hon'ble Chief Justice)

Heard the learned counsel for the appellant and learned counsel for the second respondent in all the appeals.

2. The appeals question the judgment of the learned Single Judge, dated 23/7/2010, arising out of a common award passed by the Labour Court on 14/2/2002, whereunder the second respondent in all the appeals have been awarded the relief of reinstatement together with backwages. The second respondent contended that they were Sales Assistants whereas the Management in this regard raised factual dispute contending that they were merely Commission Agents and therefore, there was no employer-employee relationship, so as to treat them as workmen. The award was challenged on several grounds and the litigation, as unfolded, passed through two phases - one relating to the conferment of permanent status of Salesman on the second respondent in all the appeals that was challenged in W.P.No.9161 of 1993. The said petition was dismissed against which W.A.No.2246 of 2000 also met the same fate.

3. After the services of the second respondent in all the appeals were terminated by the Management, the Salesmen raised an Industrial Dispute that has given rise to the present controversy being I.D.Nos.183 to 194 of 1996. The Labour Court came to the conclusion that there was continuity of the services of the second respondent in all the appeals and that the Management failed to establish that they were Commission Agents, more pointedly on the evidence, viz., the agreements which the Tribunal found did not contain the signatures of any authority of the Management. The conclusion, therefore, drawn was that they continued to be workmen of the appellant organisation and ultimately awarded reinstatement with backwages.

4. The Management came up in several writ petitions challenging the same that has been ultimately dismissed by a learned Single Judge, by a common judgment dated 23rd July 2010,

upholding the award of the Labour Court both on law and on facts.

5. The Management has come up in appeals questioning the same and the learned counsel for the appellant has advanced the very same arguments that were raised before the learned Single Judge. On the other hand, the learned counsel for the respondent workmen has responded to it by contending that on the basis of the finding of fact about the non-availability of a valid agreement indicating that the respondent workmen had been engaged as Commission Agents, the labour Court rightly came to the conclusion that the respondents were workmen and they had continuity in service. He therefore, submits that this finding of fact has not been challenged before the learned Single Judge. There is no material on record, so as to infer otherwise. It is therefore, submitted that the burden was on the Management to have established the same and having failed to do so, the conclusion drawn on by the Labour Court as well by the learned Single Judge does not suffer from any infirmity. The matter being concluded by the finding of fact in favour of the respondent workmen, no ground has been made out for interference in the present intra Court appeals.

6. We have considered the submissions raised and we find that findings as recorded by the Labour Court, and as affirmed by the learned Single Judge, lead to the only conclusion that the contention of the Management about the respondents being Commission Agents had in fact, failed and no material there being on record to prove to the contrary, the award of the Labour Court cannot be said to be suffering from any perversity or infirmity, so as to warrant interference.

7. In the background of the litigation and the finality attached to it on issues of fact, as recorded in the judgment of the learned Single Judge, we do not find any reason warranting interference with the same. Appeals fail and are hereby dismissed. No costs.

सत्यमेव जयते Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

mvs.
To

1. The Presiding Officer

First Additional Labour Court
City Civil Court Compound, Chennai.

+10ccs to Mr.S.Ayyadurai , Advocate SR.No. 9585

+1cc to Mr.K.M.Ramesh , Advocate SR.No. 9553

W.A.Nos.1162 to 1173 of 2011

A.SK(25/02/2020)