

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2020

C O R A M

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P.No.1907 of 2020
in
W.M.P.No.2233 of 2020

1. The Management of
Manpower Services India Private Limited,
Rep. by its Authorised Signatory,
No.27, Shaji Mohammed Road,
Thousand Lights, Chennai - 600 006.
Presently at:
No.2, Gee Gee Universal,
5th Floor, M.C.Nichols Road,
Chetpet, Chennai - 600 031.
2. The Management of
Manpower Services India Pvt. Ltd.
UG 66-69, World Trade Centre,
Barakhamba Road,
New Delhi 110 001.

Presently at:
No. 4-A/1, 4-A/2,
Non Hierarchical Commercial Center,
Plot No.6, Jasola, New Delhi - 110 025.

.. Petitioners

Vs.

सत्यमेव जयते

1. Prem Kumar
2. The Management of
M/s. Novartis India Limited,
Branch Office No. 127 Marshalls Road,
Egmore, Chennai - 600 008.
3. The Management of
M/s. Novartis India Limited,
Pharmaceuticals Division,
Dr.Annie Besant Road, Worli
Mumbai - 400 018.

...Respondents

Prayer: Writ petition filed under Article 226 of Constitution of India praying to issue a writ of certiorari, calling for records of the Special Joint Commissioner of Labour

Commissionerate of Labour Chennai -6 in TNSE-1/18/09 and quash its order dated 08.11.2018.

For Petitioners : Mr.S.Ravindran
Senior Counsel for S.Bazeer Ahamed

For Respondents : Mr.G.Purushothaman

O R D E R

The first respondent challenged the order of termination from service before the Special Joint Commissioner of Labour, Commissionerate of Labour / the Appropriate Authority under Tamil Nadu Shops and Establishment, 1947. The order of dismissal passed by the petitioners was set aside by the Authority and aggrieved over the same, the petitioners are before this Court.

2. The case of the 1st respondent is that he was employed by 2nd and 3rd respondents and continued in service for past 10 years, whereas termination order was issued by the writ petitioners viz., the man power agency. Aggrieved over the order of dismissal, he filed an appeal under Tamil Nadu Shops and Establishments Act, 1947. The Authority has allowed the appeal and set aside the order of dismissal.

3. I have gone through the order passed by the Authority. Even though the Man power agency, the Company which claims itself the employer filed a detailed counter affidavit, the authority has not considered the issue in proper perspective and passed the impugned order.

4. In the considered opinion of this Court, the Authority should have decided as to who is the employer and as to whether the contract entered between the 2nd and 3rd respondents with the writ petitioners is valid or not? Without deciding that preliminary issue final order cannot be passed. But the authority has not discussed any of the issues, but passed a cryptic order reproducing the statement of both the sides without giving any reasons. The impugned order passed without asserting the employer and employee relationship is liable to be set aside for non application of mind and for passing a non speaking order. The order now under challenge in this writ petition is a non speaking order and it requires clear finding by the appropriate authority as to who is the employer of the first respondent. Admitting the matter and keeping it pending for long years without any payment to the employee would prejudice him irreparably. Hence, issuance of notice to the first respondent is dispensed with. Considering the facts and circumstances, this Court is inclined to set aside the impugned order and remit the matter back to the Appropriate Authority under Tamil Nadu Shops and Establishment Act, 1947 to consider all the issues and pass a reasoned order after affording personal hearing to all the parties concerned

within a period of three months from the date of receipt of a copy of this order.

Accordingly, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

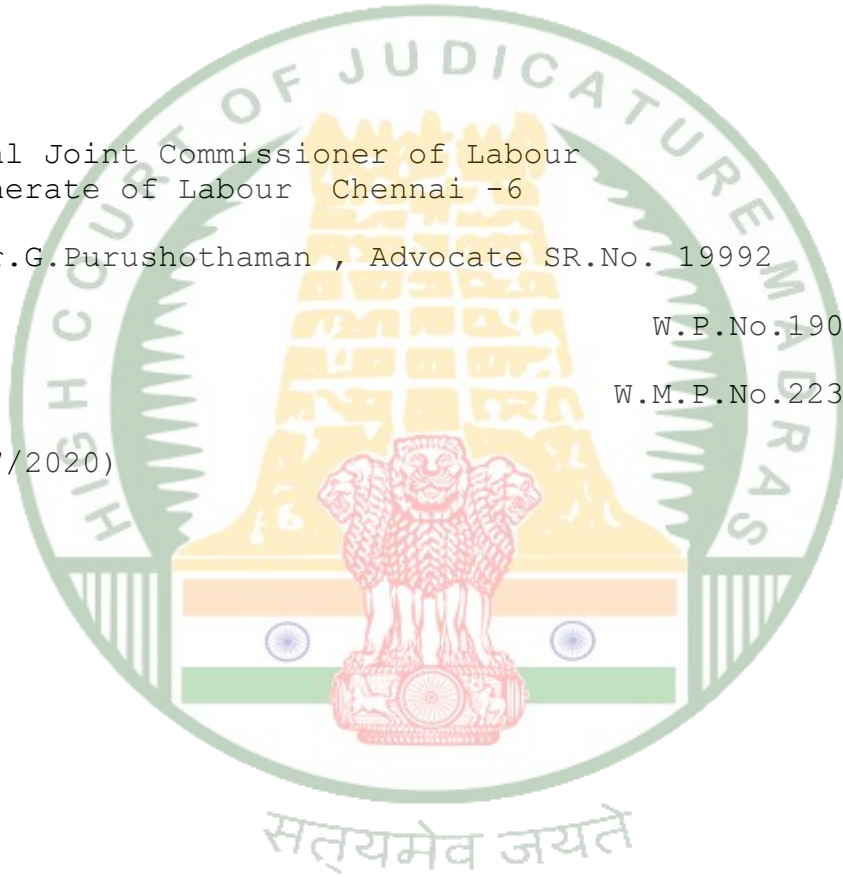
bri

The Special Joint Commissioner of Labour
Commissionerate of Labour Chennai -6

+1cc to Mr.G.Purushothaman , Advocate SR.No. 19992

W.P.No.1907 of 2020
and
W.M.P.No.2233 of 2020

A.SK(20/07/2020)



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