



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 26.11.2021

Coram:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

Writ Petition Nos.5478 and 5480 of 2020

The Management,
Swetha Engineering Ltd.,
Plot No.123-131, Tass Industrial Estate,
Ambattur, Chennai-600 098.

.. Petitioner in both the Writ Petitions

Vs.

N.Sridhar, S/o Natarajan

.. Respondent in W.P.No.5478 of 2020

M.Vasu, S/o Munusamy

.. Respondent in W.P.No.5480 of 2020

Writ Petition No.5478 of 2020 filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari after calling for the records of the Principal Labour Court, Chennai, dated 13.01.2020 passed in I.D.No.47 of 2016 and quash the Award.

Writ Petition No.5480 of 2020 filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari after calling for the records of the Principal Labour Court, Chennai, dated 13.01.2020 passed in I.D.No.48 of 2016 and quash the Award.

For petitioner : Mr.M.Jayaraman
for M/s.Jayaraman and
Associates in both W.Ps.

For respondent : Mr.V.Shanmuganathan in both W.Ps.

COMMON ORDER

The prayer in W.P.No.5478 of 2020 is to quash the Award dated 13.01.2020 passed in I.D.No.47 of 2016 on the file of the Principal Labour Court, Chennai.

2. The prayer in W.P.No.5480 of 2020 is to quash the Award dated 13.01.2020 passed in I.D.No.48 of 2016 on the file of the Principal Labour Court, Chennai.

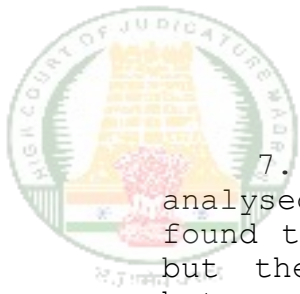


4. The brief facts which gave rise to the filing of the writ petition is stated hereunder.

ii) Dispute arose between the petitioner and the respondents when the respondents were sought to be laid off for lack of employment opportunity. In the proceedings before the Labour Court, according to the petitioner, the Company filed Wage Register of M/s.Susikala Fabricators pertaining to the period from January 2015 to August 2015 showing the name of the respondents on the roles of M/s.Susikala Fabricators. According to the petitioner Company, several documents have been produced and marked in support of the legal objection, contending that the dispute was not maintainable, as there was no existence of employer employee relationship at any point of time.

5. When the matter is taken up for hearing, the learned counsel appearing for the petitioner reiterated the facts in detail and has drawn the attention of this Court to various documents filed in support of its principal stand that there was no employer employee relationship at all.

<https://hcservices.ecourts.gov.in/hcservices/>



7. As a matter of fact, the Court below has clearly analysed all the evidence and the materials placed on record and found that the factum of refusal of employment was not disputed but the dispute was only regarding the jural relationship between the parties. This conclusion was based on the fact that the petitioner company did not discharge its obligation by marking any documents or making documents available to enable the Court to come to any adverse inference against the workman. In fact, the Labour Court has held that it is not open to the company to put the entire burden on the workman regarding continuous employment under them.

8. On behalf of the respondents workmen, the learned counsel Mr.V.Shanmuganathan, appeared. After hearing the arguments of the learned counsel for the petitioner for some time, this Court has gone through the contents of the impugned award.

9. The Labour Court has also found that the nature of the job of the petitioner was not disputed and the place of employment was also not in controversy. The labour Court, in fact, found conclusively that there was no specific denial of the employment of the workman by the petitioner company herein from 1989 for nearly 26 years. It has also referred to the Exhibits M1 and M2, the wage register containing the signature of the workmen to substantiate their claim. Though showing that such exhibits relate to the M/s.Susikala Fabricators, yet the petitioner company was able to procure such document with a view to shift the burden on the workmen to prove the continuance employment with the petitioner company. It was also found by the Labour Court that the supervisory control was exercised by the petitioner company and the alleged M/s.Susikala Fabricators happened to be an agent for payment of wages and maintaining the registers. The Labour Court further discountenanced that mere payment of ESI contribution or wages by M/s.Susikala Fabricators alone cannot be a ground to infer that the employer of the respondents was actually M/s.Susikala Fabricators.

10. From the above, it is clear that the Labour Court has found in all respects, the contentions raised by the petitioner herein as untenable and contrary to the facts.

11. This Court, while exercising judicial review under Article 226 of the Constitution of India cannot re-appreciate the evidence and come to a different conclusion. On behalf of the petitioner nothing has been highlighted to show that the findings of the Labour Court are perverse or legally unsustainable. In the absence of any such lacunae and infirmity in the award passed by the Court below, this Court in exercise of review jurisdiction cannot interfere with the award passed by the Labour Court.



12. On the whole, this Court finds nothing wrong in the award passed by the Labour Court and the grounds raised in the writ petitions are devoid of merits and liable to be rejected.

13. Accordingly, the Writ Petitions stand dismissed. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

vsi

To
The Principal Labour Court,
Chennai

+2cc to Mr.V.Shanmuganathan, Advocate, S.R.No.61613,61614.

W.P.Nos.5478 and 5480 of 2020

KG(CO)
CT/16/12/2021