



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:25.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. (MD) .Nos.9153 and 9163 of 2009

and

M.P. (MD) .Nos.2 and 2 of 2009

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W.P. (MD) .No.9153 of 2009

1.The Management,
South India Corporation Limited,
5/210, Tiruchendur Road,
Muthiah Puram, Tuticorin -5
represented by its Vice President
Thiru S.V.Raamaswamee.

2.The Management,
South India Corporation Limited,
Rani Seethai Hall Building,
6th Floor, 603, Anna Salai, Chennai -6,
represented by its
Vice President Thiru S.V.Raamaswamee.

... Petitioners

Vs.

1.The Presiding Officer,
Labour Court,
Tirunelveli.

2.M.Murugan

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records relating to the award passed by the first respondent in I.D.No.96 of 2002, dated 17.09.2008 published on 24.03.2009 and to quash the same.

For Petitioners : Mr.C.Karthikeyan
for Mr.P.Chandra Bose
For R2 : Mrs.D.Geetha

W.P. (MD) .No.9163 of 2009

1.The Management,
South India Corporation Limited,
5/210, Tiruchendur Road,
Muthiah Puram,
Tuticorin -5
represented by its Vice President
Thiru S.V.Raamaswamee.



2.The Management,
South India Corporation Limited,
Rani Seethai Hall Building,
6th Floor,
603, Anna Salai, Chennai -6,
represented by its
Vice President Thiru S.V.Raamaswamee. ... Petitioners

Vs.

1.The Presiding Officer,
Labour Court,
Tirunelveli.

2.M.Muthuramalingam ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records relating to the award passed by the first respondent in I.D.No.22 of 2001, dated 17.09.2008 published on 24.03.2009 and to quash the same.

For Petitioners : Mr.C.Karthikeyan
for Mr.P.Chandra Bose
For R2 : Mrs.D.Geetha

C O M M O N O R D E R

Since the issue involved in these writ petitions is one and the same, these writ petitions are taken up together and disposed of by this common order.

2. These writ petitions have been filed challenging the award passed by the first respondent/Labour Court in I.D.Nos.96 of 2002 and 22 of 2001, dated 17.09.2008, published on 24.03.2009 and to quash the same.

3. The learned counsel appearing for the petitioners Management would submit that the second respondents were engaged as temporary drivers and that engagement is through private contractors and there is no direct employer and employee relationship between the petitioners and the second respondents. However, the second respondents have raised an industrial dispute in I.D.Nos.96 of 2002 and 22 of 2001 before the Labour Officer under Section 2(A) of the Industrial Disputes Act, as if they were



orally terminated from service with effect from 01.08.2001 and 03.10.1999 respectively. After contest, the Labour Court has passed an award, dated 17.09.2008, in favour of the second respondents, by issuing direction to the petitioner Management to reinstate the second respondents into service with continuity of service and back wages. Pursuant to the order of the Labour Court, the second respondents were reinstated in service. However, they were not continued their work in Chennai Office. Since the second respondents were already reinstated in service, nothing survives for adjudication. Further, the second respondents did not make averments with regard to the gainful employment, during the non-employment period. However, the Labour Court, without considering the said averments and pleadings, awarded back wages, which is not sustainable one. Challenging the same, the present writ petitions have been filed.

4. Heard the learned counsel for the petitioners, learned counsel for the second respondents and perused the materials available on record.

5. Considering the facts and circumstances of the case, this Court has perused the award of the Labour Court and a perusal of the award reveals that the second respondents have not established that they were not gainfully employed, during the non-employment period. In the absence of any pleadings and documents, awarding back wages in favour of the second respondents is not sustainable. Hence, this Court is inclined to interfere with the award granting back wages to the second respondents. Accordingly, these Writ Petitions are allowed to the effect that the second respondents are not entitled for back wages. However, they are entitled for reinstatement, other terminal benefits and continuity of service till their superannuation. The petitioners Management is directed to settle the terminal benefits in favour of the second respondents. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (RECORDS)

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Sub Assistant Registrar (CS)

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To

1.The Presiding Officer,
Labour Court,
Tirunelveli.

2.The Section Officer-2 copies
VR Section,
Madurai Bench of Madras High Court, Madurai

W.P. (MD) .Nos.9153 and 9163 of 2009
25.03.2021

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