



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:04.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. (MD)No.3491 of 2010

and

M.P. (MD) .No.1 of 2010

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Aruppukottai Sarvodya Sangam,
127, Sathyamoorthy Bazar,
Aruppukottai,
represented by its Secretary.

... Petitioner

Vs.

1.The Presiding Officer,
Labour Court,
District Court Complex,
Melur Road,
Madurai 625 020.

2.Annadurai

... Respondents

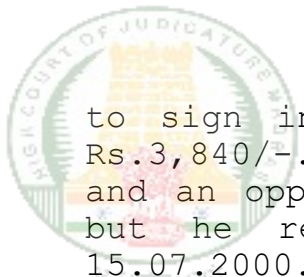
Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records relating to the award passed in I.D.No.194 of 2001 on the file of the first respondent, dated 16.09.2008 and quash the same.

For Petitioner : Mr.T.Ravichandran
For R2 : Mr.R.Murugappan

O R D E R

Challenging the award passed by the Labour Court, Madurai in I.D.No.194 of 2001, dated 31.07.2009, the present writ petition has been filed by Aruppukottai Sarvodya Sangam.

2. The case of the petitioner is that the petitioner is a Sarvodya Sangam functioning under Kadhi and Village Industries Commission Act. The said Sangam is running on no loss and no profit basis and it is not a commercial institution. It is not an Industry as defined under Section 2(j) of the Industrial Disputes Act or a Shop or Commercial Establishment as defined under Section 2 of the Tamil Nadu Shops and Establishments Act. The second respondent was engaged as night watchman in the petitioner Sangam and he is a daily rated employee and apart from the regular work, he undertook distribution of milk on commission basis. While so, on 15.04.2000, the second respondent has made a sales of milk for Rs.3,840/-. But, he has not remitted the said amount to the petitioner Sangam and from 16.04.2000, he did not turn up for work. Therefore, a charge memo was issued against the second respondent, on 08.05.2000. Thereafter, he appeared for the enquiry on 17.06.2000, but refused



to sign in the proceedings and admitted the misappropriation of Rs.3,840/-. The witness on the side of the petitioner was examined and an opportunity was given to him to cross-examine the witness, but he refused the same. Hence, the enquiry was closed on 15.07.2000.

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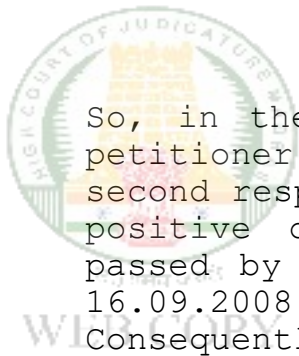
3. It is the further case of the petitioner that the second respondent has raised an industrial dispute before the Labour Court, Madurai in I.D.No.194 of 2001, alleging that he was orally terminated by the petitioner Sangam, on 08.05.2000. The Labour Court, Madurai has passed an award on 16.09.2008, to the extent that the Petitioner Sangam may be allowed the second respondent to work without prejudice to the enquiry pending against him. Challenging the same, the present writ petition has been filed.

4. The learned counsel appearing for the petitioner Sangam would submit that the petitioner Sangam did not pass any oral termination order. Hence, the claim petition filed by the second respondent under Section 2A (2) of the Industrial Disputes Act is not maintainable. Further, the petitioner Sangam is not an Industry or Shop or Commercial Establishment and it is purely Sarvodya Sangam and no loss and no profit basis, the petitioner Sangam is running by the elected Members. Hence, the award passed by the Labour Court, Madurai is liable to be set aside and prayed for allowing this writ petition.

5. The learned counsel appearing for the second respondent would submit that there is no adverse order against the second respondent and recording the counter filed by the petitioner Sangam that no oral termination order was passed and the second respondent has failed to join duty, the Labour Court has passed the award.

6. Heard the learned counsel for the petitioner, learned counsel for the second respondent and perused the materials available on record.

7. Admittedly, the second respondent is the daily rated employee and there was a misappropriation of Rs.3,840/- and pending enquiry, the petitioner Sangam claimed that the second respondent has failed to join duty. However, the fact remains that the second respondent has filed an industrial dispute in I.D.No.194 of 2001 before the Labour Court, Madurai, challenging the oral termination order. This Court has perused the award passed by the Labour Court and on perusal of the impugned award, it is seen that the Labour Court has recorded that the respondent has no serious objection to continue the second respondent in the employment. In order to facilitate the enquiry proceedings pending against him, recording the same, the award was passed and there is no direction to the petitioner Sangam to compulsorily engage the second respondent and



So, in the absence of any positive direction, it is open to the petitioner Sangam to engage the second respondent or not, since the second respondent is the daily rated employee. In the absence of any positive direction, this Court cannot interfere with the award passed by the Labour Court, Madurai in I.D.No.194 of 2001, dated 16.09.2008. Accordingly, this writ petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

akv

To

The Presiding Officer,
Labour Court,
District Court Complex,
Melur Road,
Madurai 625 020.

+1 CC to M/s.T.RAVI CHANDRAN, Advocate (SR-161[F] dated
05/01/2021)

W.P. (MD)No.3491 of 2010
04.01.2021

MK(CO)
KB(19.01.2021) 3P 3C