



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2022

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.NO.37144 OF 2003

1. The Management,
M/s. Sapana Polyweave Limited,
No.5, Thambu Naicken Street,
Chennai - 600079.
2. M/s. Sapana Polyweave Limited,
158, C.S.T.Road,
Kalina, Santacruz (East),
Mumbai - 400098.
now at Gala No.230, Guru Govindsingh
Ind-Premises Co-op. Society Limited,
Off Western Express Highway,
Goreagaon (East),
Mumbai - 400063.

... Petitioners

Vs.

1. The Special Deputy Commissioner of Labour,
(Appellate Authority under the Tamil Nadu Shops
and Establishments Act, 1947),
Chennai - 600006.

2. H.Jayaraman

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records in TSE.T/13/2001 on the file of the Special Deputy Commissioner of Labour (Appellate Authority under the Tamil Nadu Shops and Establishments Act, 1947), Chennai - 6, the 1st respondent herein and quash the order passed therein dated 30.04.2003.

For Petitioners : Mr.M.R.Raghavan

For Respondents : Mr.Veda Bagath Singh
Special Government Pleader[R1]
Mr.I.Durairaj [R2]



ORDER

The second respondent herein was originally appointed as a Regional Sales Manager at Chennai by the petitioner/Management. On 11.11.1999, the Management claimed to have transferred him to Mumbai and it is also the case of the Management that the second respondent/employee was aware of the transfer order. On the other hand, the second respondent/employee has questioned the transfer order itself and claims that he is still employed at Chennai. When his termination order was challenged before the first respondent/Authority under Section 41(1) of the Tamil Nadu Shops and Establishments Act, 1947, the Management, at paragraph 4 of their counter-affidavit had specifically raised the question of territorial jurisdiction of the first respondent to conduct the proceedings. However, the Authority had not touched upon the objection on jurisdiction and had dealt with the merits of their case and accordingly, the impugned order dated 30.04.2003 came to be passed.

2. In service jurisprudence, whenever question of territorial jurisdiction is specifically raised by any of the parties, the same requires to be taken up as a preliminary issue and dealt with before going into the merits of claim. The fact that the Management had raised the question of jurisdiction, is not denied by the workman. While that being so, I do not find any justification on the part of the Authority in not deciding the question of jurisdiction. As a matter of fact, in the order, the Authority has gone to the extent of stating that the respondent has not made any objection to the jurisdiction of the Appellate Authority to entertain this case.

3. This Court is of the view that the jurisdiction in the instant case gains significance particularly when the Management claims to have transferred the employee to Mumbai, which is denied by the employee. This Court, exercising its powers under Article 226 of the Constitution of India, will not examine such factual disputes and therefore, it would be appropriate to remit back the matter to the Appellate Authority for re-consideration.

4. In the light of the above observation, the impugned order dated 30.04.2003 passed in TSE.T/13/2001 by the Special Deputy Commissioner of Labour (Appellate Authority under the Tamil Nadu Shops and Establishments Act, 1947), Chennai - 6, is quashed and the matter is remitted back to the first respondent for re-consideration. The first respondent shall take up the issue of territorial jurisdiction as a preliminary issue and decide the



same after giving due opportunities to both the parties.
Accordingly, the Writ Petition is ordered. No costs.

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Sd/-
Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar

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To

1. The Special Deputy Commissioner of Labour,
(Appellate Authority under the Tamil Nadu Shops
and Establishments Act, 1947),
Chennai - 600 006.

+1cc to Mr.I.Durairaj, Advocate, S.R.No.12499

+1cc to Mr.M.R.Raghavan, Advocate, S.R.No.11420

+1cc to the Government Pleader, S.R.No.12042

W.P.No.37144 of 2003

SVI (CO)
RLP (14/03/2022)