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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 29.09.2021

PRONOUNCED ON : 28.01.2022

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.6428 of 2015
and M.P.No.1 of 2015

The Management,
Jafra Insoles India Ltd.,
Gudiyatham Road, Thuthipet,
Ambur, Vellore District
rep. by its Authorised Signatory
D.C.Ravi

... Petitioner

Vs.

1.The Presiding Officer,
Principal Labour Court,
Vellore District.

2.R.Ramani

3.The Management,
Alhamra Leatherware Private Ltd.,
Ambur, Vellore District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records relating to the order dated 08.08.2014 passed by the first respondent in C.P.No.189 of 2013 and to quash the same.

For Petitioner : Mr.R.Jayaprakash
for Mr.N.V.N.Margandeyam

For Respondent-2 : Mr.E.Srinivasan

For Respondent-3 : No Appearance

ORDER

The second respondent herein is the erstwhile employee of the third respondent, namely, Alhamra Leatherware Private Ltd., Ambur, Vellore District . When she was terminated from service



on 15.01.2003, she had raised an industrial dispute before the Labour Court, Vellore in I.D.No.3 of 2005 and by an award dated 21.04.2010, the third respondent was directed to reinstate her in service, together with continuity of service and 10% back wages. In the subsequent computation petition filed by the second respondent in C.P.No.189 of 2013, the petitioner namely, M/s.Jafra Insoles India Private Limited was impleaded, since the business of the original employer third respondent herein namely, Alhamra Leatherware Private Ltd., Ambur, Vellore District was purchased by the petitioner-Management viz.,M/s.Jafra Insoles India Private Limited. The Labour Court by its order dated 08.08.2014, directed the petitioner herein to pay a sum of Rs.2,07,463/- which is due under the award passed in I.D.No.3 of 2005. The said award is put under challenge in the present Writ Petition.

2. Heard the learned counsel for the parties.

3. The learned counsel for the petitioner would submit that the petitioner-Management has nothing to do with the business of the third respondent and that they were not a party in the Industrial Dispute and pleaded that the Principal Labour Court, Vellore, directing them to pay the amount computed under the impugned award in I.D.No.3 of 2005, is illegal.

4. On the contrary, the learned counsel for the second respondent submitted that at the time of retrenchment, the third respondent was in existence and at the time of passing of the award, the factory's name was changed into that of the petitioner's factory. In view of Section 18 of the Industrial Disputes Act, 1947 [hereinafter referred to as "ID Act"], the present petitioner is liable to pay the amount computed by the Labour Court. In support of such contentions, he placed reliance on the decision of the Hon'ble Supreme Court in Workmen rep. by Akhil Bhartiya Koyla Kamgar Union Vs. Employers in relation to the Management of Industry Colliery of Bharat Coking Coal Ltd., and Others reported in 2001 (4) SCC 55.

5. I have given careful consideration to the submissions made by the respective counsels.

6. Section 18(3)(c) of the ID Act provides that an award of Labour Court shall be binding on the heirs, successors or assignees in respect of the establishment to which the dispute relates. Thus, when an award is passed against one establishment and subsequently, the establishment is transferred to another establishment, the award would be binding on the subsequent transferee also, in view of Section 18 of the ID Act. This aspect was considered by the Hon'ble Supreme Court in Bharat Coking Coal Ltd., case (supra) in the following manner:-



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"8. We have already adverted to the decision of this Court in *The Workmen v. The Bharat Coking Coal Ltd. & Ors.* (supra) which examines the scope of Section 9 of the Nationalisation Act and the liability contemplated therein. It is necessary to understand the obligation of employer as such contemplated in Section 25-H of the Act as stated in clear terms by this Court in that decision. Unlike civil law, industrial law takes a different view with regard to as to who is the successor who runs the said industry subsequently. Where there is transfer of business from one owner to another, the rights and obligations which existed between the old management and their workers continue to exist vis-à-vis the new management after the date of the transfer provided there is continuity of service and identity of business. For purposes of continuity of service Section 17 makes the necessary provisions. Thus a person on such transfer becomes the owner of the concern and the employer of the employees of the establishment, and as long as there is identity of business itself and retains its identity, it must be held that the respondent is also a successor-in-interest to that extent. This Court in *Anakapalle Co-operative Agricultural and Industrial Society Ltd.* (supra) took this view after considering several relevant factors into consideration."

The aforesaid extract is self explanatory and as held by the Hon'ble Supreme Court, the transferee becomes the owner of the concern as well as the employees of the erstwhile establishment and therefore is deemed to be a successor-in-interest. If such a legal proposition is applied to the present case in hand, the contention of the learned counsel for the petitioner, may not be correct.

7. This apart, the learned counsel for the second respondent herein had filed an affidavit dated 27.09.2021 before this Court stating that, two of the Directors of M/s.Farida Holdings Private Limited are the Directors of the petitioner's Company also. She has further stated that one of the Directors of M/s.Farida Holdings Private Limited has signed the rental agreement of the Company and that the agreement is between the family members. It is also her statement that both the third respondent, as well as the petitioner-Management are engaged in the business of manufacturing leather wares. These statements have not been countered by way of a reply affidavit by the petitioner. Incidentally, the case of the petitioner also is that the petitioner's Company is a subsidiary company of M/s.Farida



Holdings Private Limited. In the light of the statements made in the counter affidavit of the second respondent herein, which has not been denied by the petitioner's Company, reveals that it is also a successor in interest of the third respondent. As such, I do not find any infirmity in the findings of the learned Judge, Principal Labour Court, Vellore, by holding that the petitioner's Company is liable to pay the amount due under the award passed in I.D.No.3 of 2005.

8. Accordingly, the Writ Petition stands dismissed. Consequently, the connected Miscellaneous Petition is closed. There shall be no orders as to costs.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

DP

To

The Presiding Officer,
Principal Labour Court,
Vellore District.

+2cc to Mr.N.V.N.Margandeyam, Advocate, S.R.No.5475

W.P.No.6428 of 2015
and M.P.No.1 of 2015

MT(CO)
SB(10/02/2022)