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W.P.No.10805 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.No.10805 of 2013

National Harbour Workmen Union,
Rep. by its Secretary Ponraj,
No.147, Green Cotton Road,
Tuticorin 628 001.

..Petitioner

Vs.

1.M/s.Poompuhar Shipping Corporation Ltd.,
Door No.437, Anna Salai, 4th Floor,
Nandanam, Chennai 600 005.

2.M/s. Excel Neat and Tidy Agency,
Door No.6, P.T.Rajan Road,
Bibikulam,
Madurai 625 007.

3. M/s. Paramasivam & Sons,
Sundar Illam,
Muthiahpuram, Tuticorin 628 005.

4. The Presiding Officer,
Central Govt. Industrial Tribunal
cum Labour Court,
Ist Floor, B Wing, 26, Haddows Road,
Shastri Bhavan, Chennai 6.

..Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of Writ of Certiorari calling for the records in order dated 22.06.2012 in ID No.5 of 2010 on the file of fourth respondent.

For Petitioner : Mr.G. Rajan

For Respondents : Mr.G. Anand Gopalan
for M/s.T.S.Gopalan and Co.
for R1

No appearance – for RR2 & 3

R4 – Court

ORDER

This Writ Petition challenges the award of the Central Government Industrial Tribunal cum Labour Court at Chennai in ID No.5 of 2010 dated 22.06.2012. It was a dispute raised by the National Harbour Workmen Union, Tuticorin against Poompuhar Shipping Corporation Ltd and the respondents 2 and 3.

2. The Central Government had referred the matter to Industrial



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Dispute Tribunal by an order dated 08.01.2010. On receipt of the reference, the Tribunal had numbered the same as ID No.5 of 2010. It was the case of the petitioner Union that 14 employees were not paid fair and equitable wages by the first and the second respondent. The first respondent, for its activities, had issued a tender. The second respondent was successful in tender and it carried out its operations by employing 14 workmen, who were members of the aforesaid Union.

3. The Union had argued that the contract labourers have to clean the spillage, record the delay of the vessels, Nessel position and crane position. Out of 14 contract labourers, 11 were deck labourers and 3 were record cum supervisors. According to them, they were entitled to be regularized by the first respondent. It is pertinent to point out that this was not a subject matter of the reference.

4. The reference was confined to fair and comparable wages and the Tribunal had rightly come to the conclusion following the judgment in ***State Bank of Bikaner and Jaipur v. Om Prakash Sharma***, reported in



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2006 (5) SCC 123, that the Labour Court cannot exceed the reference made

to. The logic is not far to see. The jurisdiction of the Labour Court commences on the reference and the reference had been confined only to fair and comparable wages. The Tribunal correctly denied to go into the other issue. Insofar as the fair and equitable wages are concerned, the Tribunal had come to the conclusion that the claim as regards the non-payment of fair and comparable wages had not been proved.

5. There is no illegality or irregularity in the award and hence this Court is not inclined to interfere in terms of jurisdiction under Article 226 of the Constitution of India. I would further add that the finding, as long as the 14 workmen have been paid the agreed wages and other benefits by the second and third respondents, they have no remedy as against the first respondent is correct and requires no interference.

6. Mr.G.Rajan, learned counsel appearing for the petitioner would submit that PF and ESI contributions have not been regularly paid by the respondents 2 and 3. As directed by the Labour Court, it is the



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responsibility of the first respondent to ensure that its contractors comply with the statutory payments at the time of granting the tender and during the time the tender has been worked. Suffice to direct the first respondent to ensure that the statutory dues, which are to the benefit of the workmen are paid by the second and third respondent. In case of any default, it is for the first respondent to initiate action against the second and third respondent regarding the ESI and PF statutes. It is always open to the writ petitioner to raise a fresh dispute on fair and comparable wages, in case the grievance still exists.

7. With the above observation, the Writ Petition is dismissed.

07.06.2023

jv

Index: Yes/No

Internet: Yes/No

Speaking order/Non-Speaking order



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To:-

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2. The Presiding Officer,
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V.LAKSHMINARAYANAN, J.

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