



W.P.Nos.12038 to 12041 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27..06..2023

Coram

THE HON'BLE MR JUSTICE V. LAKSHMINARAYANAN

Writ Petition Nos.12038 of 2013

&

M.P.No.1 of 2013

and

Writ Petition Nos.12039, 12340 & 12041 of 2013

&

M.P.Nos.2 of 2013

The Management
Gowri Spinning Mills Private Limited,
Thadangam,
Thokkampatti Post,
Dharmapuri-636705.

..... Petitioner in all Writ Petitions

-Versus-

The Presiding Officer,
Labour Court, Salem.

..... 1st respondent in all Writ Petitions

K.Sakthi

..... 2nd Respondent in W.P.No.12038 of 2013

K.G.Mani

..... 2nd Respondent in W.P.No.12039 of 2013

S.Kaliammal

..... 2nd Respondent in W.P.No.12040 of 2013

R.Mathammal

..... 2nd Respondent in W.P.No.12041 of 2013



W.P.Nos.12038 to 12041 of 2013

Prayer in W.P.No.12038 of 2013: Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorari calling for the records in I.D.No.520 of 2004 on the file of the 1st respondent – Labour Court, Salem and to quash the award dated 23.07.2012 (communicated on 21.03.2013) passed in I.D.No.520 of 2004.

Prayer in W.P.No.12039 of 2013: Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorari calling for the records in I.D.No.514 of 2004 on the file of the 1st respondent – Labour Court, Salem and to quash the award dated 23.07.2012 (communicated on 21.03.2013) passed in I.D.No.514 of 2004.

Prayer in W.P.No.12040 of 2013: Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorari calling for the records in I.D.No.513 of 2004 on the file of the 1st respondent – Labour Court, Salem and to quash the award dated 23.07.2012 (communicated on 21.03.2013) passed in I.D.No.513 of 2004.

Prayer in W.P.No.12041 of 2013: Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorari calling for the records in I.D.No.512 of 2004 on the file of the 1st respondent – Labour Court, Salem and to quash the award dated 23.07.2012 (communicated on 21.03.2013) passed in I.D.No.512 of 2004.



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For Petitioner : Mr.M.R.Raghavan
For Respondents : Mr.R.Md.Nasurullah
for Mr.K.V.Shanmuganathan
for R2 in all Writ Petitions
R1 – Labour Court in all
Writ Petitions

ORDER

In all these writ petitions, the management challenges the order of the 1st respondent – Labour Court, Salem, dated 23.07.2012 in I.D.Nos.520, 514, 513 & 512 of 2004 whereby the petitioners herein were directed to be reinstated with continuity of service and 40% of back wages.

2. Heard both sides.

3. Mr.M.R. Raghavan, learned counsel appearing for the management would submit that the 2nd respondent in all these writ petitions were workmen and therefore, they were not apprentice as per Section 2(s) of the Industrial Disputes Act, 1947. A trainee cum apprentice is also a workman. The only category of apprentice that is excluded, is an apprentice under the Apprentice



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Act, 1961. If the 2nd respondent in all these writ petitions are not the persons who are coming under the Apprentice Act, 1961, then, they were covered only under the Industrial Disputes Act. They were excluded from the Apprentice Act, 1961. Further, each of the workmen has been working for a period of more than 5 – 8 years. Therefore, they had been carrying out their regular work and they cannot be treated as apprentices. I, therefore, conclude that they were workmen within the meaning of Section 2(s) of the Industrial Disputes Act.

4. The other issue that Mr.M.R. Raghavan would point out is that the management had consistently taken a stand that they were willing to take back the workmen, but, it was the workmen, who had not joined the services. Therefore, according to him, granting of 40% back wages is excessive.

5. A perusal of the documents filed by the workmen, in particular, W.W.1 to W.W.5 and W.W.11 would go on to show that the workmen were willing to join and they had also sent letters to the management in this regard. It was the management, which did not respond to the same which constrained the workmen to move the appropriate authorities under the Industrial Disputes Act. Therefore, the awards restricting the back wages to 40% are just and reasonable



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and the findings are not tainted with any perversity or illegality. Therefore, I do

not find any merit in these writ petitions and the same deserve only to be dismissed.

In the result, the writ petitions are dismissed. The awards dated 23.07.2012 passed by the 1st respondent in I.D.Nos.520, 514, 513 & 512 of 2004 stand confirmed. No costs. Consequently connected MPs are closed.

27..06..2023

Index : yes / no
Neutral Citation : yes / no
Speaking / Non Speaking Order
kmk

To

1.The Presiding Officer, Salem.



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V.LAKSHMINARAYANAN, J.

kmk

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