



WEB COPY



W.P.No.2065 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2023

CORAM :

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

W.P.No.2065 of 2019

D. Nagalingam

... Petitioner

Vs.

1. The Managing Director,
M/s. B.E. Billimoria & Co. Limited
Head Office,
Shiv Sagar estate "A" Block,
2nd Floor, Dr.A.B. Raod, Worli,
Mumbai 400 018.

2. The Chief Executive Officer (South),
M/s. B.E. Billimoria & Co. Limited,
Regional Office,
401-402, 4th Floor, Sigma Wing,
Raheja Tower, 177 Anna Salai,
Chennai 600 002.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the entire records pertaining to the impugned Order in I.D. No.153 of 2013 dated 28.11.2017 on the file of the Hon'ble Principal Labour Court, Coimbatore, quash the same and consequently direct the 1st and 2nd respondent to pay back wages to the petitioner from the date of termination dated 03.07.2012 till the date of superannuation dated 21.11.2015 along with all terminal,



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attendant and monetary benefits.

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For Petitioner : Mr. A. Deivasigamani
For Respondents : Mr.U.Gowri Shankar

ORDER

Challenge in this Writ Petition is made to the orders dated 28.11.2017, passed in I.D. No.153 of 2013, by the Presiding Officer, Principal Labour Court, Coimbatore. The present Writ Petitioner filed the above said petition under Section 2A(2) of the Industrial Disputes Act, 1947 (herein after referred to as "the Act"), to set aside the termination order dated 03.07.2012 passed by the respondents and to reinstate him with all back wages and attendant benefits with continuity of service.

2. The 1st respondent Company is engaged in the field of construction work and the 2nd respondent is in charge of several construction projects in the Southern Region of India. The petitioner was appointed in the 1st respondent Company as a Senior Engineer with effect from 23.08.2006 and an appointment letter in this regard was issued on 19.09.2006. Subsequently, the petitioner was promoted from Deputy Project Manager to Project Manager in Coimbatore Tidel Park Site with effect from 01.04.2010 and he was directly under the control of the 2nd respondent.



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While so, the petitioner was transferred from Coimbatore site to Noida with immediate effect and was directed to report on or before 02.07.2012.

However, on 03.07.2012, he was terminated by the 2nd respondent through an e-mail.

2.1. According to the Writ Petitioner, the order of the 1st respondent terminating his services is illegal. He therefore, filed a petition in I.D. No.153/2013 under Section 2-A(2) of the Act before the Principal Labour Court, Coimbatore. The respondent Management filed a detailed counter. After analysing the evidence on record, the Presiding Officer, Principal Labour Court, Coimbatore, vide his order dated 28.11.2017, held that the present writ petitioner does not come within the ambit of workman under Section 2(s) of the Act and hence, he cannot raise any dispute under the Act. Aggrieved by the said orders, the present Writ Petition is filed.

3. Mr. A. Deivasigamani, learned counsel for the petitioner would contend that the Principal Labour Court, Coimbatore, without considering the other aspects of the case, had held that the Industrial dispute raised by the present writ petitioner is not maintainable as he does not come under the purview of "workman" as envisaged under



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Section 2(s) of the Act and that it is erroneous. According to him, he was under the direct control of the 1st respondent and therefore he is a workman for all practical purposes.

4. Mr.U.Gowri Shankar, learned counsel for the respondents would contend that the Labour Court, after analysing the evidence on record, had come to the conclusion that the present Writ Petitioner is not a workman within the definition of Section 2(s) of the Act. He therefore, would contend that the orders passed by the Principal Labour Court, Coimbatore, is perfectly in order and does not warrant any interference by this Court.

5. It is seen from the records that the present Writ Petitioner had deposed before the Labour Court that he used to supervise the staff and he was in charge of allocating work to various workmen. The Principal Labour Court, after taking into account the nature of duty discharged by the present writ petitioner had come to a conclusion that he is not a workman and therefore dismissed the petition. When the status of the workman has been adjudicated at the threshold level itself, it is not necessary for the Labour Court to go into the other aspects of the



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case. The petitioner, as per his admission, was working in a supervisory capacity drawing wages exceeding the limits prescribed under Section 2(s)(iv) of the Industrial Disputes Act and therefore, the petition filed by him under Section 2-A(2) of the Industrial Disputes Act is not maintainable. I do not find any infirmity in the orders passed by the Labour Court. Accordingly the present Writ Petition is dismissed as devoid of merits. No costs. However, the petitioner is at liberty to work out his remedy by approaching appropriate forum in accordance with law.

01.11.2023

bga

Index : yes/no

Speaking /Non speaking Order

To

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R.HEMALATHA, J.

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