



W.P.No.960 of 2020 & W.M.P. Nos.14077, 14089, 14079, 14083, 14085, 1169, 14022, 14028, 14031, 14061, 14092, 14109, 14128, 14130, 14133, 14134, 14136, 14138 & 3124 of 2020

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2023

CORAM :

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

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M/S.ENRICA ENTERPRSES PVT LTD

Post Bx No.5 By pass Road Poonamallee

Chennai 600 056

Represented by its Director Mr. R.Raghuram

...Petitioner

Vs

1	B.Baskaran	ID.No. 383 / 2017
2	T.Udhayaraj	ID.No. 384 / 2017
3	D.Devaraj	ID No. 385/2017
4	N. Ramesh Babu	ID. No. 386 /2017
5	S.Somashankar	ID. No. 387/2017
6	T.Ramaraj	ID. No. 388 / 2017
7	M.Ramachandran	ID. No. 389 / 2017
8	N. Ramanan	ID. No 390/2017
9	R.Suresh Babu	ID. No. 391 / 2017
10	M.Selvam	ID. No. 392 / 2017
11	M.S.Ragauraman	ID. No. 393/ 2017
12	S.Muralidharan	ID. No. 394 /2017
13	D. Jayakumar	ID. No. 385 / 2017
14	M. Sekar	ID. No. 396 / 2017
15	P. Parthasarathi	ID. No. 397 / 2017
16	M.Nelson	ID No. 398 / 2017



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17	B. Sivashankar	ID. No. 399 / 2017
18	A.Ajithprasath Jain	ID. No. 400 / 2017
19	I. Palanisamy	ID. No. 401 / 2017
20	J.Madhan	ID. No. 402 / 2017
21	H. Loganathan	ID. No. 403 / 2017
22	A. Richard	ID. No. 404 / 2017
23	R. Balaji	ID. No. 405 / 2017
		 Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records pertaining to the Common order dated 28.06.2019 passed by the First Additional Labour Court, Chennai, in I.D.Nos.383 to 405 of 2017 and to quash the same.

For Petitioner : Mr.G. Anandakrishnan
for M/s. T.S.Gopalan & Co.

For RR1 to 12, 15 to 17,
19 to 21 & 23 : Mr. M.Vijayakumar

For RR13, 14, 18 & 22 : Mr.R.Chakkaravarthy

ORDER

The petitioner M/s. Enrica Enterprises Private Limited having its office in Poonamallee and represented by its Director has challenged the common Award dated 28.06.2019 of the First Additional Labour Court, Chennai, in ID Nos. 383 to 405 of 2017.



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2. The twenty three (23) respondents were employees of the petitioner Company. The petitioner Company was engaged in manufacture of Indian Made Foreign Liquor (IMFL) for TASMAL. In September 2016 when TASMAL stopped placing order for IMFL with the petitioner Company the latter was constrained to exempt workers from reporting and the only exception was those in essential services. They were able to pay salaries to all employees only upto August 2016. The Trade Union representing the workmen approached the Court seeking a direction to TASMAL to place orders with the petitioner Company. Subsequently, an understanding was arrived at with the eighty one employees who were apprised of the position of the Company and the inability to pay salaries. Eighty (80) out of the eighty one (81) resigned and their gratuity, salary arrears with three months salary were paid on 08.02.2017 and 12.02.2017. The one remaining employee who did not resign was terminated. Later, when the TASMAL started placing orders, the petitioner Company, which was on the verge of closure, commenced operations, started recruiting staff in March 2017 in which some of the resigned employees also applied and got employment on



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fresh terms and conditions. The twenty three (23) respondents approached the conciliation officer raising the dispute stating that they were coerced to resign. This was after they received all the monetary benefits due to them. When the conciliation talks failed, the adjudication shifted to the Labour Court, Chennai, in the form of ID Nos.383 to 405 of 2017. The Labour Court, concluded that the twenty three (23) employees/respondents were covered under Industrial Disputes Act, 1947 (in short ID Act) though they were assigned quasi-supervisory roles and that there was an element of coercion by the Management/petitioner Company to submit resignation. Thus, the Labour Court declared that the twenty three (23) employees are entitled for reinstatement with back wages, continuity of service and other attendant benefits.

3. Mr.G. Anandakrishnan, learned counsel for the petitioner Company would contend that,

- a) the respondents were not covered under ID Act as they were not workmen and also not members of the Union. They were in supervisory cadre;



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- b) the respondents had voluntarily resigned from the Company and also claimed their gratuity, Provident Fund, etc., which were settled in February 2017 in full and final settlement of their dues;
- c) the respondents did not re-apply when the Company announced its production later and started recruitment;
- d) they have not proved that they were not in gainful employment during the intervening period and many of them were in gainful employment/profession.

4. Per contra, the learned counsels for the respondents contended that the respondents were workmen though their designation gave an impression that they were supervisors. They also contended that when the respondents were confronted with a question as to whether they wish to be terminated or submit resignation, it amounts to coercion which the Labour Court had rightfully interpreted. They, therefore, prayed for dismissal of the Writ Petition.

5. The first question to be answered is whether the twenty three (23) respondents are 'workmen' within the meaning of Section 2(s) of the



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Industrial Disputes Act, 1947. This aspect seems to be the primary plea of the petitioner Company. According to the Labour Court, their designations are deceptive. The nature of duties performed by them were the same as performed by any workman. According to the Labour Court, they had no power to sanction leave or take decisions. But the reading of the depositions of some of the employees who were examined as witnesses before the Labour Court shows that they were indeed not doing the actual work but supervising the work of employees working under them and at times they were sanctioning leave as well as taking decisions. Some of them were not able to sanction leave or take decisions but were defacto Managers acting as a Manager in the absence of the Manager. There are conflicting rulings as to who a workman is to be entitled to get covered under ID Act. The facts as could be deciphered in this case points out to the reality that many of the twenty three (23) employees were not workmen in the truest sense and therefore I hold that they cannot come under the purview of ID Act. Nevertheless, even assuming that they are workmen, it is clear that this is a classic case of a failing manufacturing unit, the petitioner Company, appears to have been dependent on just one client, i.e. TASMAL. When the Government



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policy changed, the fortune of this unit took a plunge. However the sanctity in the decision to meet the eighty one (81) odd employees and offer them the best possible package of voluntary resignation with three months salary has to be commended. The petitioner Company was not indifferent to the plight of the respondents. The Labour Court had viewed it as a coercive method but was there a better way is the primary question. Had they not been offered this three months salary package, they could have been terminated with one month wages as mandated by the ID Act or may be could have gone without salary for months. It is not as though they were not offered employment again once the Company was able to commence its operations. The respondents in their depositions have clearly stated that they did not choose this offer. Having accepted the terminal benefits without any protest, the manner in which they raised the adjudication is incomprehensible. They cannot have the cake and eat it too. Thirdly, the respondents have not substantiated that they were not in gainful employment during the intervening period. It is settled law that the initial burden of proving the same lies with the workman.



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6. In view of the foregoing discussions, this Court holds that the Award of the Labour Court is perverse and without any logical reasoning. In the result, the petition is allowed. The common Award dated 28.06.2019 passed by the I Additional Labour Court, Chennai, in I.D. Nos.383 to 405 of 2017 is set aside. No costs. Consequently connected Writ Miscellaneous Petitions are closed.

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Index : yes/no

Speaking /Non speaking Order



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R.HEMALATHA, J.

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