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W.P.No.12865 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2023

CORAM :

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.12865 of 2016

K.Mallika

...Petitioner

Vs.

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

2. The Management,
100-Number Beedi Ring Unit,
V.K.Abdul Jabbar & Sons,
No.26, Sami Naidu Street,
Ranipet – 632 402.

...Respondents

Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to I.D.No.29 of 2013 on the file of the 1st respondent, quash the award dated 22.08.2014 passed therein by the 1st respondent and further direct the 2nd respondent to reinstate the petitioner in service with back wages, continuity of service and all other attendant benefits.

For Petitioner : Mr.S.N.Ravichandran

For Respondents : Mr.K.M.Aasim Shehzad for
M/s.BFS Legal, for R2



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ORDER

This Writ petition has been filed seeking quashment of the award of the 1st respondent dated 22.08.2014 made in I.D.No.29 of 2013 and to consequently, direct the 2nd respondent to reinstate the petitioner in service with back wages, continuity of service and all other attendant benefits.

2. The case of the petitioner is that, she was working under the 2nd respondent, who is engaged in the business of manufacture of beedies, as a daily wager from 1986 and she was doing the job of sticking ring label to the beedie. As she was not paid the earned leave wages and the festival holiday wages, the petitioner approached the 2nd respondent expressing her grievance. Having got enraged by the repeated demands, the 2nd respondent denied employment to the petitioner from 01.03.2012. At the instance of the petitioner, conciliation proceedings were initiated, which ended in failure resulting in filing of the industrial dispute in I.D.No.29 of 2013 before the 1st respondent. Before the 1st respondent, the 2nd respondent resisted the claim made by the petitioner contending that she abandoned the services from 01.03.2012, that despite offering employment to the petitioner during



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the course of conciliation proceedings, she did not report to duty and that she was gainfully employed somewhere else. After contest, by the impugned award dated 22.08.2014, the 1st respondent dismissed the industrial dispute raised by the petitioner. Challenging the same, the petitioner is before this Court.

3. Learned counsel for the petitioner submitted that, the petitioner used to collect the materials from the 2nd respondent and deliver the finished products on daily basis and stick labels for around 20,000-25,000 beedies per day, for which, she earns a monthly salary of about Rs.7,500/- only. While so, all of a sudden, the 2nd respondent, retrenched the petitioner and questioning the same, the petitioner raised an industrial dispute, however, the 1st respondent, without considering any of the above said facts, dismissed the ID, vide present impugned order, which is wholly unsustainable. However, he fairly submitted that, since the petitioner is aged about 63 years, this Court may fix a fair compensation in her favour and accordingly, prayed for appropriate orders.



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4. Learned counsel appearing for the 2nd respondent submitted that, there is no employer-employee relationship in between the 2nd respondent and the petitioner and the petitioner was temporarily engaged as Beedie worker by the 2nd respondent and the petitioner used to stick ring label to the beedies and she was paid based on the piece rate. Further, no document was produced by the petitioner either before the 1st respondent or before this Court to show that she received monthly salary. Hence, in the absence of any documents to establish the employer-employee relationship as alleged by the petitioner, the 1st respondent had rightly dismissed the industrial dispute raised by the petitioner and the same does not warrants interference of this Court.

5. Heard the learned counsel for the petitioner and the learned counsel appearing on behalf of the 2nd respondent and perused the material documents placed on record.

6. Though, the 2nd respondent submitted that, they are ready to provide the earlier work to the petitioner as done by her, however,



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considering the fact that, the petitioner is aged about 63 years and has not been in employment for the past 10 years, and that, she is a pathani worker and in order to strike balance in between the parties, this Court directs the 2nd respondent to pay a sum of Rs.75,000/- as a one time compensation in full quit in favour of the petitioner within a period of two weeks from the date of receipt of copy of this order, failing which, the said compensation amount will carry interest at 6% interest per annum from the date of the claim petition.

7. With the above observations and directions, this Writ petition stands disposed of. No costs.

12.07.2023

skt

Index : Yes (or) No
Neutral Citation : Yes (or) No
Speaking Order : Yes (or) No

To

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

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M.DHANDAPANI., J.

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