



WEB COPY



W.A.Nos.1008, 1009, 1010,
1011 and 1012 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2023

CORAM

THE HON'BLE Mr. JUSTICE R.SURESH KUMAR
AND
THE HON'BLE Mr. JUSTICE V.LAKSHMINARAYANAN

W.A.Nos.1008 to 1012 of 2010

W.A.No.1008 of 2010 :

The Management,
The National Small Industrial
Corporation Ltd.,
No.29 & 30, SIDCO Industrial Estate,
Dindigul – 624 006.

... Appellant

Vs.

1.The Presiding Officer,
Labour Court,
Tiruchirapalli.

2.P.Balasundari

3.M.Selvam

4.A.Ponnusami

5.R.Arunai Princy

6.Jayaprakasi

W/o. P.Suresh Kumar (Died)

7.Minor S.Karthik Raja

S/o.P.Suresh Kumar

[Minor 7th respondent rep. By
his next friend and natural guardian]

... Respondents



W.A.Nos.1008, 1009, 1010,
1011 and 1012 of 2010

Prayer : Appeal filed under Clause 15 of the Letters Patent Act, against the order dated 25.02.2010 in W.P.No.21044 of 2000 passed by this Court.

For Appellant : Mr.S.Subbiah, Senior Counsel
for Mr.Ajoy Kumar Gnanam
For R1 : Court
For R2 to R7 : No appearance

W.A.No.1009 of 2010 :

The Management,
The National Small Industrial
Corporation Ltd.,
No.29 & 30, SIDCO Industrial Estate,
Dindigul – 624 006.

... Appellant

Vs.

1.R.Arunai Princy

2.Jayaprakasi

3.Minor S.Karthik Raja
(Minor 3rd respondent rep. By
his next friend and natural guardian
his mother the 2nd respondent herein)

4.The Presiding Officer,
Labour Court,
Tiruchirapalli.

... Respondents

Prayer : Appeal filed under Clause 15 of the Letters Patent Act, against the order dated 25.02.2010 in W.P.No.7776 of 2000 passed by this Court.



WEB COPY



W.A.Nos.1008, 1009, 1010,
1011 and 1012 of 2010

For Appellant : Mr.S.Subbiah, Senior Counsel
for Mr.Ajoy Kumar Gnanam
For R1 to R3 : No appearance
For R4 : Court

W.A.No.1010 of 2010 :

The Management,
The National Small Industrial
Corporation Ltd.,
No.29 & 30, SIDCO Industrial Estate,
Dindigul – 624 006.

... Appellant

Vs.

1.M.Selvam

2.The Presiding Officer,
Labour Court,
Tiruchirapalli.

... Respondents

Prayer : Appeals filed under Clause 15 of the Letters Patent Act, against
the order dated 25.02.2010 in W.P.No.7815 of 2000 passed by this
Court.

For Appellant : Mr.S.Subbiah, Senior Counsel
for Mr.Ajoy Kumar Gnanam
For R1 : No appearance
For R2 : Court

W.A.No.1011 of 2010 :

The Management,
The National Small Industrial
Corporation Ltd.,
No.29 & 30, SIDCO Industrial Estate,
Dindigul – 624 006.

... Appellant



W.A.Nos.1008, 1009, 1010,
1011 and 1012 of 2010

WEB COPY

Vs.

1.P.Balasundari

2.The Presiding Officer,
Labour Court, Tiruchirapalli.

... Respondents

Prayer : Appeal filed under Clause 15 of the Letters Patent Act, against the order dated 25.02.2010 in W.P.No.7973 of 2000 passed by this Court.

For Appellant : Mr.S.Subbiah, Senior Counsel
for Mr.Ajoy Kumar Gnanam

For R1 : No appearance
For R2 : Court

W.A.No.1012 of 2010 :

The Management,
The National Small Industrial
Corporation Ltd.,
No.29 & 30, SIDCO Industrial Estate,
Dindigul – 624 006.

... Appellant

Vs.

1.A.Ponnuchamy

2.The Presiding Officer,
Labour Court,
Tiruchirapalli.

... Respondents

Prayer : Appeal filed under Clause 15 of the Letters Patent Act, against the order dated 25.02.2010 in W.P.No.7974 of 2000 passed by this Court.



W.A.Nos.1008, 1009, 1010,
1011 and 1012 of 2010

For Appellant : Mr.S.Subbiah, Senior Counsel
for Mr.Ajoy Kumar Gnanam
For R1 : No appearance
For R2 : Court

COMMON JUDGMENT

(Judgment of the Court was delivered by R.SURESH KUMAR, J.)

These writ appeals have been directed against the orders passed by the Writ Court dated 25.02.2010 made in W.P.No.21044 of 2000 along with connected writ petitions by way of common order.

2. The respondents were the contract employees worked with the appellant Management. At one point of time, they have been disengaged, therefore they raised industrial dispute and those industrial dispute raised by them have been taken up by the Labour Court concerned as Industrial Disputes in I.D.Nos.290, 303, 304 and 305 of 1995 on the file of the Labour Court, Tiruchirapalli. Ultimately award was passed by the Labour Court on 09.08.1999, under which, the Labour Court directed the Management to reinstate the employees. However, the employees were not eligible for getting any backwages.



W.A.Nos.1008, 1009, 1010,
1011 and 1012 of 2010

WEB COPY

3. Aggrieved over the said award passed by the Labour Court for denial of backwages, the employees filed writ petitions in W.P. Nos.7776, 7815, 7973, 7974 of 2000 and the Management filed W.P.No.21044 of 2000 challenging the award passed by the Labour Court in giving direction to the Management to reinstate the employees.

4. That is how all those writ petitions were taken up for hearing jointly and a common order was passed by the Writ Court on 25.02.2010, under which, the learned Judge has agreed with the factual finding with the Labour Court that the contract between a private contractor and the appellant Company is sham and nominal. Therefore, based on which, it cannot be stated that they are only contract labourers and not the direct employees or labourers of the appellant Company.

5. As a result of which, the learned Judge also found that, of course by taking into account the decision of the Hon'ble Supreme Court in International Airport Authority of India Vs. International Air Cargo



W.A.Nos.1008, 1009, 1010,
1011 and 1012 of 2010

WEB COPY

Workers' Union and another reported in 2009 LLR 923, the employees were entitled for reinstatement.

6. Since the industry itself was closed after sometime i.e., after 7 years from the date of the disengagement or termination of their services, the learned Judge also held that, if at all the employees had been continuously working, they would have worked for 7 years, thereafter definitely they have to send out because of the closure of the Company. Therefore, for the purpose of the continuous working, already 17-B wages had been drawn by them as per the direction of this Court and also the last drawn salary had been paid during the period they were out of service after the Labour Court award. Therefore, taking all these aspects into consideration the learned Judge has come to the conclusion that, the employees would be entitled to get the compensation.

7. Accordingly, the learned Judge has calculated the compensation as Rs.25,000/- for each of the employee which should be paid within a time frame.

7/12



W.A.Nos.1008, 1009, 1010,
1011 and 1012 of 2010

WEB COPY

8. As against the said order passed by the learned Single Judge, employees have not filed any appeal, therefore they accepted the said order, whereas the appellant company preferred these intra-Court appeals.

9. Assailing the said order of the learned Judge, Mr.S.Subbiah, learned Senior Counsel appearing for the appellant Company would submit that, insofar as the finding given by the Labour Court that, the contract between the contractor and the appellant Company is a sham and nominal is concerned, that finding could not have been made as there has been no factual matrix and factual background is available before the Labour Court even and therefore that aspect has not been considered by the learned Judge in proper perspective.

10. The learned Senior Counsel at one point of time has stated before this Court that, even the appellant Company would be ready to make the payment of Rs.25,000/- as a compensation to these workers as directed by the learned Single Judge, however, insofar as the finding that



W.A.Nos.1008, 1009, 1010,
1011 and 1012 of 2010

he has given that the contract is only a sham and nominal is concerned, that will have some repercussion and therefore that should be erased or eschewed, he contended.

11. We have considered the said submissions made by the learned Senior Counsel appearing for the appellant and have perused the materials placed before this Court.

12. On factual aspect the Labour Court has found that, even though there has been a contract between the contractor and the appellant Company that was found to be a sham and nominal contract, in other words, that is, in the words of the Labour Court, though there was a contract under whom the employees were engaged by the appellant Company, the entire control of these employees was in the hands of the Management of the appellant Company.

13. Based on such factual finding given by the Labour Court alone the learned Judge in the order impugned has given his finding that the said contract is only a sham and nominal.



W.A.Nos.1008, 1009, 1010,
1011 and 1012 of 2010

WEB COPY

14. Since such a finding is a very basis for arriving at a conclusion as to what relief the employees are entitled to and based on which it has been held that, the employees are entitled to get the reinstatement and the reinstatement could not be made possible because the Company itself has been closed after 7 years, then only the learned Judge thought of giving the compensation that is how Rs.25,000/- compensation has been ordered. Therefore, what the conclusion reached by the learned Judge in passing such an order is justified only on the basis of the finding given in respect of the alleged contract between the contractor and the appellant Company as sham and nominal and therefore, such an important finding cannot be easily eschewed as sought for by the learned Senior Counsel appearing for the appellant company.

15. In that view of the matter, we do not find any error in the order passed by the learned Judge, hence it does not require any interference from us, accordingly, these Writ Appeals fail, hence they are dismissed. If the said amount has not already been paid, the same shall be paid to



W.A.Nos.1008, 1009, 1010,
1011 and 1012 of 2010

each of the respondent employees with 6% interest from the date of due till the date of payment within a period of six weeks from the date of receipt of a copy of this judgment. No costs.

(R.S.K. J.) (V.L.N. J.)
05.07.2023

Index : Yes/No

Speaking Order : Yes/No

Sgl

To

The Presiding Officer,
Labour Court,
Tiruchirapalli.



WEB COPY



W.A.Nos.1008, 1009, 1010,
1011 and 1012 of 2010

R. SURESH KUMAR, J.
And
V.LAKSHMINARAYANAN, J.

Sgl

W.A.Nos.1008, 1009, 1010,
1011 and 1012 of 2010

05.07.2023