



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 28.11.2023

Pronounced on : 19.12.2023

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THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.Nos.18066 and 18067 of 2012

and

M.P.Nos.1 and 1 of 2012, 1, 1, 2, 2, 3 and 3 of 2015

The Management,
Rep. by the Special Officer,
Atomic Energy Employees,
Consumers Co-operative Stores Ltd.,
Shopping Centre, Kalpakkam (PO),
Pin: 603 102.

... Petitioner in both W.Ps

-VS-

1. The Presiding Officer,
Principal Labour Court,
Chennai.

2. A.L.Chidambaram.

... Respondent in both W.Ps

Prayer in W.P.No.18066 of 2012: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the first respondent Principal Labour Court, Chennai, relating to the order dated 30.04.2012 in C.P.No.190 of 1994 and quash the same.

Prayer in W.P.No.18067 of 2012: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the first respondent Principal Labour Court, Chennai, relating to the order dated 30.04.2012 in C.P.No.525 of 2001 and quash the same.



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W.P.Nos.18066 and 18067 of



For Petitioner : Mr. P.Anbarasan (in both W.Ps)

For Respondents : Mr. K.V.Ananthakrishnan (in both W.Ps)

COMMON ORDER

The issue that arise for consideration in both the Writ Petitions is one and the same and between the same parties and as such, both the Writ Petitions were heard together and are being disposed of by this common order.

2. These two Writ Petitions have been filed seeking a Writ of Certiorari to call for the records relating to the orders passed in C.P.No.190 of 1994 and C.P.No.525 of 2001 dated 30.04.2012 by the Principal Labour Court, Chennai and to quash the same.

3. The brief facts that are relevant for disposal of the Writ Petitions are as under:

3.1. While the second respondent herein was working as Assistant Manager in the petitioner society, his services were terminated on 06.07.1991 by giving one month notice. Aggrieved by the said termination, the second



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respondent has filed an appeal under Section 41 of the Tamil Nadu Shops and Establishments Act, 1947 and the said appeal was allowed by the Deputy Commissioner of Labour (Appeal) by an order dated 31.05.1993. Aggrieved by the said order, the petitioner herein filed Writ Petition in W.P.No.2050 of 1994, which came to be dismissed by an order dated 18.08.2000. The Writ Appeal filed there against in W.A.No.871 of 2001 was also dismissed on 06.11.2007. Thus, the order passed under Section 41 of the Tamil Nadu Shops and Establishments Act, 1947 has become final. Thereafter, the second respondent herein filed two Claim Petitions in C.P.No.190 of 1994 and C.P.No.525 of 2001, claiming for backwages for two different periods consequent upon the setting aside of the termination order i.e., for the periods from July 1991 to January 1994 and from February 1994 to August 2001. The said Computation Petitions were dismissed by the Principal Labour Court by an order dated 16.05.2006. Aggrieved by the said order passed by the learned Labour Court, the second respondent approached this Court by filing Writ Petitions in W.P.Nos.22818 and 22819 of 2008. The said Writ Petitions were allowed by the learned Single Judge of this Court by an order dated 24.01.2011, holding that the second respondent herein has a pre-existing right for the backwages and remitted the matter back to the learned



Principal Labour Court with a direction to decide the Claim Petitions afresh.

Having been aggrieved by the said order dated 24.01.2011, the petitioner herein filed Writ Appeals along with an application for condonation of delay.

While the said Writ Appeals were pending before the learned Division Bench of this Court, the learned Principal Labour Court passed orders dated 30.04.2012 pursuant to the order of remand, allowing the Computation Petitions filed by the second respondent herein. Aggrieved by the said orders dated 30.04.2012 passed in C.P.No.190 of 1994 and C.P.No.525 of 2001, the present Writ Petitions were filed.

4. During the pendency of these Writ Petitions, the learned counsel for the petitioners filed additional set of papers on 25.11.2015, bringing to the notice of this Court about the subsequent developments that have taken place after filing of these Writ Petitions.

5. When the matter is taken up for final disposal, the learned counsel for the petitioner has drawn the attention of this Court to the orders passed by the learned Division Bench of this Court in W.A.Nos.1759 and 1760 of 2014, including the orders passed in Review Application Nos.24 and 25 of 2015



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and the order passed by the Hon'ble Apex Court dated 14.07.2015.

6. From the perusal of the above orders, it is noticed that the order passed by the learned Single Judge of this Court in the Writ Petition in W.P.No.22818 and 22819 of 2008 dated 24.01.2011, declaring that the second respondent herein has got a pre-existing right for backwages and remitting the matter back to the Principal Labour Court for computing the backwages was set aside by the learned Division Bench of this Court by order dated 10.02.2015 and the review filed by there against by the second respondent herein was also dismissed on 26.03.2015. Further, it is also noticed that the special leave petition filed by the second respondent herein against the order in W.A.No.1759 and 1760 of 2014 dated 10.02.2015 in SLP (C) Nos. 17126 to 17129 of 2015 was also dismissed on 14.07.2015. The net result is that the declaration that the second respondent has a pre-existing right for backwages and the further direction issued by the learned Single Judge of this Court by order dated 24.01.2011 in W.P.Nos.22818 and 22819 of 2008 was set aside.



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7. There is no dispute about the factual matrix as noted herein above.

In the absence of any dispute about the setting aside of the order dated 24.01.2011 passed by the learned Single Judge of this Court, the orders that were passed by the Principal Labour Court dated 30.04.2011, which are impugned in these two Writ Petitions, which is a consequential order to the order dated 24.01.2011 passed by the learned Single Judge of this Court, has no legs to stand as the very order of remand, directing the Principal Labour Court to compute the backwages for which the second respondent herein is entitled to, was set aside.

7. No doubt, as on the date of passing of the impugned orders, the order of the learned Single Judge dated 24.01.2011 was standing and there was no impediment for the learned Principal Labour Court to dispose of the matters by passing the impugned orders. But subsequent thereto, the very basis and the declaration made by the learned Single Judge of this Court was upset by the learned Division Bench of this Court and the same was also refused to be interfered with by the Hon'ble Apex Court. Thus, the very basis for the impugned orders is lost and consequently, the impugned orders are



bound to be declared as illegal. Accordingly, the impugned orders passed in C.P.No.190 of 1994 and C.P.No.525 of 2001 dated 30.04.2012 passed by the Principal Labour Court, Chennai are wholly unsustainable under law and the same are hereby quashed.

8. Accordingly, these Writ Petitions are allowed. There shall be no orders as to costs. Miscellaneous Petitions, if any, shall stand closed.

19.12.2023

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

The Presiding Officer,
Principal Labour Court,
Chennai.



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MUMMINENI SUDHEER KUMAR, J.

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