



WP.No.15200 of 2010

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**Dated: 29.11.2023**

**Coram:**

**THE HONOURABLE MRS.JUSTICE N.MALA**

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S.Sarathy

...Petitioner

Vs.

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

2.The Management,  
Axles India Ltd.,  
Cheyyar Division,  
Nemadi Post, Cheyyar.

....Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records from the files of the 1<sup>st</sup> Respondent in I.D.No.167 of 2006 and quash its impugned Award made therein dated 04.05.2009 insofar as the 1<sup>st</sup> Respondent has negated the claim of the Petitioner for reinstatement in service, with continuity of service, with back wages and with all other attendant and consequential benefits.

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For Petitioner : Mr.K.G.Vipra Narayanan

For Respondents : R1- Court

R2- Mr.A.P.Venkatesh Prasad

for M/S. AGAM Legal counsel

### **ORDER**

Writ petition is filed by the claimant challenging the Award of the Labour Court dated 04.05.2009 rejecting his claim petition filed for the relief of reinstatement in service with continuity of service, backwages and other benefits to the petitioner.

2. The writ petitioner will be referred to as Petitioner and 2<sup>nd</sup> respondent as Management.

3. It is the case of the petitioner that he joined the management factory at Cheyyar vide its order dated 14.11.2002. The petitioner was engaged as company apprentice on consolidated wages of Rs.2,650/- plus 300/- as conveyance allowance. According to the petitioner, though he



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worked as company apprentice in the factory, he was actually doing the production job directly. According to the petitioner, the term company apprentice was misnomer and it was assigned to him only to deny the status of regular worker. On 20.04.2002, while the petitioner was in night shift, he met with an accident in the factory for which he took treatment and the management also signed the medical card for his treatment. According to the petitioner, he was advised by the doctors to take complete rest for a period of six months and during the period of leave the management pressurised him to submit his resignation, which he refused. The petitioner wrote two letters to the management for which there was no response and thereafter during the 1<sup>st</sup> week of October 2004, when he reported for work, he was denied permission stating that his services were terminated on 13.05.2004. As all his repeated requests to the management for re-employment failed, he raised the Industrial Dispute which was referred to the Labour Court in I.D.No.167/2006.

4. The management contested the claim petition by filing counter



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statement. According to the management, the petitioner was engaged as company apprentice vide order dated 14.11.2002. The apprenticeship of the petitioner was extended vide order dated 14.05.2003, from 14.05.2003 to 13.11.2003 and further extended for a period of six months vide order dated 14.11.2003 from 14.11.2003 to 13.05.2004. The petitioner was paid consolidated stipend of Rs.2,650/- and conveyance allowance of Rs.300/-. According to the respondents, nothing was heard from the petitioner from 21.04.2004 and as his apprenticeship ceased automatically from 14.05.2004 as per terms of the apprenticeship order, no action was taken by it to ascertain the availability of the petitioner. It was only after a delay of two years, notice of conciliation was received by the management. According to the management, the petitioners services were not terminated but the apprenticeship automatically came to an end with effect from 14.05.2004 by efflux of time. The management denied that the petitioner was a workman under Section 2(S) of the Industrial Disputes Act and hence pleaded that the dispute itself was not maintainable. The management filed an additional statement pleading delay and laches among other grounds.



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5. The petitioner filed a rejoinder in support of his claim that he was a workman in terms of Section 2(S) of the Industrial Disputes Act and as such was entitled to maintain the industrial dispute before the Labour Court.

6. Before the Labour Court, the petitioner examined himself as W.W1 and marked 15 documents in support of his case and management examined one witness M.W1 and marked Ex.M1 to Ex.M15 in support of its case.

7. The Labour Court on an appreciation of the entire evidence on record and on consideration of both legal and factual aspects of the case dismissed the dispute. Aggrieved by the award of the Labour Court, the petitioner has filed the above writ petition.

8. The learned counsel for the petitioner submitted that the award of



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the Labour Court was erroneous in as much as the Labour Court failed to note that though the petitioner was designated as an apprentice he was actually directly engaged in production job and therefore he was covered by the definition of workman under Section 2(S) of the Industrial Disputes Act. According to the learned counsel, the finding of the Labour Court that the petitioner was only a apprentice and not a workman was unsustainable on the facts of the case. The counsel submitted that the Labour Court failed to note that the Management was in the habit of appointing apprentice to do regular job. The learned counsel for the petitioner further submitted that finding of the Labour Court that the petitioners case was covered under Section 2 (oo) (bb) of the Industrial Disputes Act was erroneous. The learned counsel therefore submitted that the award of the Labour Court deserved to be set aside.

9. The learned counsel for the Management submitted that Labour Court on the basis of the appointment order and the extension orders had rightly concluded that the petitioner was only an apprentice and not a



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workman under Section 2(S) of the Industrial Disputes Act. The learned counsel further submitted that assuming that the petitioner was a workman, the petitioner's service having come to an end on 13.05.2004, the exception found in Section 2(oo) (bb) of the Industrial Disputes Act was applicable and so the petitioner was not entitled to any relief under the I.D. Act.

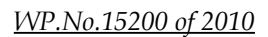
10. I have heard both the learned counsels and perused the materials placed on record.

11. The petitioner was appointed as a 'company apprentice' under the company's certified standing order on 14.11.2002. As per the appointment order, the petitioner was paid consolidated stipend of Rs.2,600/- and the period of apprenticeship was six months. Thereafter, under Ex.W9 and Ex.W10, the petitioner's apprenticeship was extended. Under Ex.W10, the apprenticeship was extended till 13.05.2004 on the same terms and conditions as the original appointment order. In my view as the



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appointment order and the extension order's are available, the enquiry whether the petitioner was apprentice or workman is not necessary as the documents' speak for themselves. Only in the absence of an appointment order, the Court can enquire into the factual aspects as to whether the employment was regular or that of an apprentice. The Hon'ble Supreme Court in the case of *National Small Industries Corporation Ltd. Vs. Lakshminarayanan* reported in 2007 (1) SCC 214, clearly held that only when the letter of appointment was not available, the Labour court could embark on the exercise as to whether the workman was in effect a "trainee" under the Apprentices Act, 1961, or a "workman" within the meaning of Section 2(s) of the 1947 Act. The Court further held that assuming that the respondent was a workman, within the meaning of Section 2(S) of the I.D Act, 1947, on account of his contractual tenure, his case would be covered within the exception of Section 2(oo)(bb) of the I.D. Act. The Court hence held that Section 25-F of the Act had no application to the respondent's case. In my view, the said Judgment of the Hon'ble Supreme Court applies squarely to the facts of the present case.



In the light of the above discussions, I find no infirmity in the findings of fact as well as law of Labour Court and therefore the writ petition is dismissed. There shall be no order as to costs.

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Index: Yes/No  
Speaking Order: Yes/No  
Neutral Citation: Yes/No

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**N.MALA, J.**

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To  
The Presiding Officer,  
Principal Labour Court,  
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