



W.P.No.27240 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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RESERVED ON
16.11.2023

PRONOUNCED ON
22.12. 2023

CORAM:

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.P.No.27240 of 2010
and M.P.No.1 of 2010

M/s.Greaves Cotton Limited,
Represented by its Dy.General Manager (HR),
Heavy Engineering Unit,
D-18, Sipcot Industrial Complex,
Gummidipoondi – 601 201. ... Petitioner

Vs

1.The Presiding Officer,
II Additional Labour court, Chennai.

2.G.Govindammal
3.G.Shanthi
4.G.Umamaheswari
5.G.Balachander
6.G.Saraswathi ... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records relating to the order passed by the first respondent on 18.08.2010 in CP.No.86 of 1999



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on the file of II Additional Labour Court, Chennai and quash the same and pass such further orders.

For Petitioner : Ms.Yogalakshmi
for Mr.K.Rajasekaran

For R1 : Labour Court
For R2 : Mr.S.Ravi

ORDER

The Writ Petition has been filed challenging the award of the Labour Court dated 18.08.2010 made in C.P.No.86 of 1999 on the file of the II Additional Labour Court, Chennai.

2. Heard, Ms.Yogalakshmi, learned counsel for Mr.K.Rajasekaran learned counsel appearing for the petitioner, and Mr.S.Ravi learned counsel appearing for the second respondent.

3. The learned counsel for the petitioner would submit that the deceased employee M.Govindasamy, was employed under the petitioner Company in Chennai Unit on 07.03.1960. Later on in the year 1993 the Chennai Unit was shifted to SIPCOT Industrial Complex, Gummidipoondi and thereafter the deceased had joined in the Unit



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situated at Gummidipoondi, and worked as a Production Engineer in the Junior Management II Cadre and retired on 29.10.1998 and had received all retirement benefits of Rs.1,42,009.22 P.

4. She would submit that the deceased employee had filed a Claim Petition under Section 33 C (2) of Industrial Disputes Act before the first Respondent claiming a sum of Rs.2,26,150/ under different heads such as; claim for the T A allowances & meal expenses, for the period 1993 to 1998 i.e., for 6 years 172 months at a tune of Rs.2,400/- pm, Second claim with regard to expenditure bill for the work done at Lucknow during 1992 as Rs.4,170/-, Third claim- salary for the month of August 1992 as Rs.3500/- and Fourth claim seeking Special allowance of Rs.920 pm for 34 months.

5. She would further contend that the petitioner company has given its explanation for the claims stating that the daily Travel expenses/allowances Scheme of the petitioner company is only applicable to those employees who were going for outstation works. The claim of the



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deceased employee for the traveling expenses and meals was claimed by him for travelling to the industry daily from his residence for which the above scheme is not applicable. She would also contend that the employee was given entire travelling expenses from his house at Korukkupet to Gummidipoondi and that to the employee was given Ist Class train Pass and also auto fare to a sum of Rs.20/- daily from Gummidipoondi railway station to the Industry, and the other claim with regard to the expenses incurred in the trip to Lucknow was also recieved by the employee without any dispute.

6. She would further submit that with regard to the third claim regarding the salary of the month August 1992 is also denied by the petitioner, and would contend that if the deceased would have not being paid with the salary for the month of August 1992 he should have raised the same atleast prior to his retirement and not after receiving all the retirement benefits. As far as the fourth claim is concerned that an employee will be eligible for the Special Allowance based on each employees performance and that the performance of the deceased



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employee was not satisfactory in the year 1996 and the same was communicated to the deceased vide letter dated 05.02.1996. After which the petitioner has revised the pay scale and other benefits to the deceased employee on 01.10.1996.

7. Therefore, she would submit that the award of the labour court directing the petitioner company to pay the claim amount to the legal heirs of the deceased employee is highly unjust, and hence seeks interference of this Court to set aside the award of the Tribunal and to allow this Writ Petition.

8. Countering her arguments, Mr.S.Ravi, learned counsel for the respondents would submit that the deceased employee had worked in the Chennai Unit of the petitioner company from the year 1960 to 1992, and as per the Schemes of the petitioner company the employees are eligible for the travelling and meal expenses as such the deceased employee was entitled for Rs.1 per kilometer and for 90 km he was entitled to Rs.90/- and for the meals he was entitled for Rs.50/- per day and in total for a



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month the deceased employee was entitled for Rs.3640/-. But the petitioner had paid only Rs.1040/- pm to the deceased employee and the outstanding amount for which the deceased employee is entitled for 6 years would come to Rs.1,87,200/- and had also claimed the expenses incurred by the deceased while he was engaged in the work of the company at Lucknow and the salary for the month of August 1992 was also not paid. He would further contend that the deceased employee has sent legal notice to the petitioner claiming the amount which he was entitled to. Seeking no response from the company the deceased has filed C.P.No.86 of 1999, before the Labour Court, Chennai and the same was allowed by the Tribunal. Therefore, he would submit that the award of the Labour Court in allowing the claim of the deceased employee is correct and seeks to dismiss this writ petition.

9. I have considered the submissions made by the learned counsels appearing on either side and perused the materials available on record before this Court.



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10. The respondents 2 to 6 are the legal heirs of the deceased employee and the deceased employee were in employment of the petitioner/ Company and he had superannuated on 29.10.1998. Thereafter, he had initiated a claim under Section 33 C (2) of the Industrial Disputes Act under various heads. The said claim had been opposed by the petitioner by raising a contention as to the maintainability of the claim since the said employee would not fall within the definition of the workmen under the Industrial Disputes Act, 1947 as he was in the managerial cadre and working as a Junior Manager Grade – II. Further, the claim had also been contested contending that he is not entitled to such a claim and also that such claim had been made belatedly. Even though, the claim had been opposed on the question of maintainability, the 1st respondent/ Labour Court had not framed any issue as regards to whether the petitioner in the Claim Petition was entitled to maintain the petition.

11. On the contrary, it had gone about in upholding the claim of the petitioner based upon certain rights. It is not disputed by the private



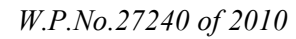
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respondents that the petitioner was working as a Junior Manager Grade –

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II. In fact, they cannot also dispute the same as their predecessor in interest namely Govindasamy in his claim petition has also admitted that he had been working as a Junior Manager-II in the respondent/Management. He had, made the claim for travel expenditure from Korukupet to Gummudipoondi, that is from his residence to the factory, as envisaged by the petitioner/Company in Ex.W2.

12. A perusal of the aforesaid exhibit would show that the employee of a Company would be entitled to certain travel expenses and meal expenses, if he is sent on duty from the Company to any other place. It does not envisage a travel expenses on a daily basis for the employee to attend the office from his residence. This aspect has not at all considered by the Industrial Tribunal. The Industrial Tribunal had also failed to see the admission of the employee that he had been given a first class train pass to attend his work by the petitioner/Company. Issuance of a first class train pass by the petitioner/Company would itself show that the petitioner cannot be a ordinary workmen of the Company and definitely



13. Therefore, I am of the view that the order impugned in this Writ
on is absolutely a perverse order contrary to the facts available on
d.

14. In fine, this Writ Petition is allowed and the order impugned in this Writ Petition is set aside. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

22.12.2023

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Index : Yes/No
Speaking order : Yes/No
Neutral Citations : Yes/No



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To

The Presiding Officer,
II Additional Labour court, Chennai.

K.KUMARESH BABU,J.

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A Pre-delivery order made in
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