



W.P.No.27415 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 03.07.2023

PRONOUNCED ON : 10.11.2023

CORAM :

THE HONOURABLE MR.JUSTICE RMT. TEEKAA RAMAN

W.P.No.27415 of 2010

and

M.P.Nos.1 of 2010, 1 and 2 of 2012

The Management
M/s. Eastern Chrome Tanning
Corporation Pvt. Ltd.,
M.C.Road, Sular,
Vaniyambadi, Vellore District,
Rep. By S.Syed Saleem
Deputy General Manager

: Petitioner

-VS-

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

2.C.Sekar

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records and quash the Award, dated 08.09.2010 passed in I.D.50 of 2009 by the first respondent, Presiding Officer, Principal Labour Court, Vellore.



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For Petitioner : M/s.R.S.Lakshimi Priya
for M/s.Gupta and Ravi

For R1 : Court

For R2 : Mr.S.T.Varadarajulu

ORDER

The Management is the writ petitioner herein. The Management has filed the above writ petition to quash the award passed by the Labour Court dated 08.09.2010 made in I.D.No.50 of 2009.

2. The brief facts that are necessary for determination of this writ petition are as under:

(a).The petitioner is a company engaged in the business of processing of leather in their tannery. There are times when due to business reasons and certain other administrative exigencies, the petitioner is bound to engage the services of contract employees deputed by reputed registered contractors. In such fashion, in 2005, the petitioner, among others, engaged the services of



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Three Star Industrial Services, Vellore for providing contract labour for doing certain non-core production activities. For the said purpose, the petitioner and the said Three Star Industrial Services, Vellore entered into a written contract dated 30.06.2005, whereby the rights and obligations of both parties were set out. In terms of the agreement dated 30.06.2005, the said Three Star Industrial Services, Vellore was obligated to provide contract labour to the petitioner for carrying out certain jobs as mentioned in the agreement.

(b).The petitioner has also registered and obtained a Certificate of Registration under Section 7 of the Contract Labour (Regulation and Abolition) Act, 1970 and the Contractor namely, Three Star Industrial Services, Vellore, had also obtained a license as per Section 12 of the Act.

(c).The said Three Star Industrial Services, Vellore provided contract labour in terms of the agreement dated 30.06.2005 and the said arrangement between the petitioner and Three Star Industrial Services, Vellore continued till 01.07.2007, when the petitioner terminated the



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contract entered into with Three Star Industrial Services, Vellore.

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(d).According to the petitioner, the second respondent raised a dispute in conciliation alleging that his services were terminated by the petitioner on 11.02.2006. The petitioner upon receipt of notice, appeared before the Conciliation Officer and filed a counter statement pointing out that there is no master and servant relationship between the petitioner and the second respondent as the second respondent was engaged as a contract employee and in fact the second respondent was deputed by one of the contractors, viz., Three Star Industrial Services, Vellore. Consequently, the petitioner pointed out to the Labour Officer that since there is no master and servant relationship between the petitioner and the second respondent.

(e).Since the conciliation Officer could not bring about any settlement between the parties, he forwarded his failure report. Based on the failure report, the second respondent (labour) filed a case before the first respondent/Labour Court and the same was taken on file as I.D.No.50 of 2009 and both the parties have filed their pleadings.



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(f).The second respondent in his claim statement, before the first respondent in I.D.No.50 of 2009, alleged that he joined the services of the petitioner company on 01.10.1996 and that he was paid a sum of Rs.2000/- per month as wages and that the second respondent worked in Padding Section. The second respondent further alleged that on 11.02.2006, he met with an accident while working and that his left hand was crushed in the padding machine. He further alleged that he spent more than Rs.70,000/- for treatment and that he was given only Rs.10,000/- by the Management. He further alleged that he sent a registered letter on 20.10.2007 to the Management about the treatment and asking for job but, however, there was no reply from the petitioner. The second respondent alleged that he was working continuously from 1996 to 11.02.2006 ie., nearly for 10 years. He further alleged that the management terminated him from service after the accident that took place on 11.02.2006.

(g).The writ petitioner filed their counter in the Industrial Dispute before the Labour Court, alleging that there was no master and servant



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relationship between the petitioner and the second respondent and it is specifically pleaded that the second respondent herein was an employee deputed by the Three Star Industrial Services and they have obtained Certificate of Registration under the Contract Labour Act and the contractor also had obtained a licence and the contractor had got a separate ESI and PF codes and that the second respondent was extended the said benefits from the contractor.

(h).Before the Labour Court, the second respondent examined himself as a witness and filed his proof affidavit, where, he reiterated the facts stated in the claim statement. He further alleged in the proof affidavit that he was denied employment after the accident and that his termination was illegal and that he was not aware of Three Star Industrial Services at all. Apart from the above, the second respondent filed eight documents viz., Ex.W.1 to Ex.W.8.

(i).It is pertinent to mention that the second respondent examined another person viz., Ruban-W.W.2, who happened to be the Secretary of the Union. The said witness in his proof affidavit marked the medical records of the second respondent and stated that the second respondent worked only in



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the petitioner company and not under the contractor. The said witness in his cross examination admitted that he has no proof to show that he is a member of the union and he also admitted that he is tendering evidence at the behest of the second respondent.

(j).On consideration of both oral and documentary evidence, the Labour Court has held that there is a relationship of master and servant between the petitioner and the second respondent and accordingly, allowed the Industrial Dispute as stated *supra*. Hence, the writ petition.

3.Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the second respondent.

4.After perusing the order passed by the Labour Court, I find that much emphasis has been given to Ex.W.8, Job Card of the Management. In this regard, it is to be stated that the petitioner in the proof affidavit filed in I.D.No.50 of 2009 had very clearly stated in para 11 that Ex.W.8 is a series of job card filed by the second respondent and the entries therein are made for movement of materials from various production sections. The sign which



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is stated to have been made by the second respondent is in the finished yard operation. The operation denotes only the operation of materials unlike other area of operation shown in the document. but the signatures are not obtained from workers like the second respondent in the normal course. It was further sated in the affidavit that signature has been affixed by the second respondent for the purpose of the case. Furthermore, it is only for the movement of material; at this juncture, it is relevant to states Ex.M.2, Ex.M.3 and Ex.M.5. In Ex.M2, dated 19.09.2008, the letter addressed by the Chief Inspector of Factories to the Manager of Three Star Industrial Services regarding the treatment given to the second respondent, Sekar, who was injured in the industrial premises and taking treatment at CMC Hospital, goes to show that the said Sekar, the second respondent is employed by the contractor, namely, Three Star Industrial Services. So also, the reply given by the Three Star Industrial Services to the Deputy Chief Inspector of Factories that was covered under ESI, the treatment has been given to the injured, second respondent. Ex.M.1 is a Form-11 issued by the ESI Dispensary also support the case. My attention is also drawn to Ex.M.5, dated 24.04.2009 which again goes to show that the Chief Inspector of



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Factories has categorically stated that the said Sekar, the second respondent herein is not employed by the factory but is employed by the contractor and asked for the details. The service agreement between the management and the service provider was terminated. Consequently, he was removed from service and he has filed the present application as if there exists master and servant relationship. The labour court has erroneously considered Ex.W.8, Job Card for the Management. At this juncture, it remains to be stated that the Labour Court has conveniently omitted to look into and not even considered Ex.M.1 to Ex.M.5 which goes to the root of the matter that there is no relationship of master and servant between the petitioner and the second respondent.

5.The second respondent had obtained benefits from ESI authorities for the injuries sustained by him as an employee of Three Star Industrial Services, Vellore as could be seen from Ex.M.2 and Ex.M.3. Admittedly, the second respondent was covered under ESI Act by the Three Industrial Services, Vellore under the code number and as their employee and the Identify Card and ESI declaration submitted by the second



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respondent along with his family photograph mentioned the name of Three Star Industrial Services, Vellore as the employer.

6. Hence, I find that the findings rendered by the Labour Court that there exists relationship of employer and employee between the petitioner and the second respondent is erroneous. On the contrary, the writ petitioner Management has clearly demonstrated that he is the employer of the said contractor as per Ex.M.1 to Ex.M.3 and Ex.M.5 and hence, the said findings of the Labour Court is hereby set aside and in the absence of any employer and employee relationship, the I.D.No.50 of 2009 is not maintainable and consequently, the writ petition is allowed and the award passed by the labour court is hereby set aside. No costs. Consequently, connected miscellaneous petitions are closed.

10.11.2023

Index: Yes / No
Internet: Yes / No
NCC : Yes/No
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To

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

RMT. TEEKAA RAMAN, J.

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