



W.P. No.3329 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2023

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P. No.3329 of 2018

and

W.M.P. No. 4073 of 2018

Noble Tech Industries Private Limited
Rep. by its HR Manager-J.Balaji
14/2A2, Melpakkam Village
Kaliampoondi, Uthiramerur Taluk
Kanchipuram District.

... Petitioner

-VS-

1. The Presiding Officer
II Additional Labour Court
Chennai.

2. S.Ponnusamy

3. VKG Steel and Energy Private Limited
14/2A2, Melpakkam Village
Kaliampoondi, Uthiramerur Taluk
Kanchipuram District.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the records of the first respondent in I.D. No.153 of 2007 and quash its award dated 19.06.2017.

For Petitioner : Mr. P.Nehru

For Respondents : R1 - Labour Court
R2 & R3 – No appearance



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ORDER

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This writ petition has been filed seeking for issuance of a writ of certiorari to quash the impugned Award dated 19.06.2017 in I.D. No.153 of 2007 passed by the Presiding Officer, II Additional Labour Court, Chennai.

2. Heard Mr.P. Nehru, learned counsel for the petitioner. Despite service of notice, there is no representation on the side of the respondents. Considering the pendency of the case, this writ petition is taken up for final disposal.

3. The crux of the issue involved in this case are as follows :-

The 2nd respondent joined the services with the 3rd respondent on 10.01.2005. It is the case of the 2nd respondent that all of a sudden, on 12.04.2005, the 3rd respondent has terminated his services, without issuing any notice. Aggrieved over the oral termination, the 2nd respondent filed a petition before the Labour Officer (Conciliation), Pondicherry, whereas it ended in vain. It is averred that the 2nd respondent raised an industrial dispute before the 1 respondent seeking to set aside the termination as well as sought for a compensation of Rs.69,000/- for his non-employment in I.D. No.153 of 2007. Subsequently, in the year 2008, the petitioner-management has purchased the 3rd respondent Company and therefore, the petitioner herein was impleaded as



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party respondents in the aforesaid I.D. petition. The 1st respondent/Labour Court has considered the termination of the 2nd respondent by the 3rd respondent as illegal and thereby, it partly allowed the Industrial Dispute in I.D. No.153 of 2007 by setting aside the said termination. Further, direction was issued to the 3rd respondent-employer to pay back wages and other attendant benefits to the 2nd respondent- employee. Aggrieved by the said order, dated 19.06.2017 passed by the II Additional Court, Chennai, the petitioner-management, who has purchased the 3rd respondent Company has filed this writ petition with the aforesaid prayer.

4. Learned counsel for the petitioner-management has submitted the length of services rendered by the 2nd respondent-employee is only for 90 days and not for 240 days, as claimed by the 2nd respondent. Further, he vehemently argued that the 2nd respondent being a temporary employee and hence, the question of issuance of any relieving order or termination order by the 3rd respondent will not cause, that too when the cause of terminating the services of the 2nd respondent is due to brawling behavior.

5. Learned counsel further drew the attention of this Court to paragraph No.7 of the counter affidavit filed before the 1st respondent, wherein it has been



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specifically stated that M/s.Pushpit Steels, Pondicherry is not the sister concern of the 3rd respondent Company. Moreso, he pointed out to the report submitted by the Conciliation Officer, dated 19.06.2006 stating that the conciliation between the parties (employee-employer) ended in failure. In view of the above, the impugned Award dated 19.06.2017 passed by the II Additional Labour Court, Chennai, Coimbatore is liable to be set aside and prays for allowing of this writ petition.

6. This Court perused the entire records. It is seen from the records placed before the Labour Court that the 2nd respondent / employee was examined himself as W.W.1. and marked four Exhibits viz., Exs.W1 to Ex.W4. On the side of Management, one witness was examined as M.W.1 and Exhibits Exs.M1 to Ex.M5 have been marked.

7. As seen from the records, it is not in dispute that the 2nd respondent is the employee and the 3rd respondent is the employer. Thus, there is an employer-employee relationship between them. It is an undisputed fact that the petitioner company had purchased the 3rd respondent Company. Further, on perusal of records, it reveals that according to the 2nd respondent he has not committed any misconduct nor any enquiry was conducted. It is also the



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contention of the 2nd respondent that he was not employed anywhere else gainfully during the period of his non employment. The 1st respondent while passing the impugned order has considered all the aforesaid factors of the 2nd respondent employee. Even though it is the claim of the petitioner-management that the 2nd respondent has never worked under them, it is to be noted that either the petitioner or the 3rd respondent have failed to submit any proof to substantiate their claim that M/s. Pushpit Steels (P) Ltd is not the sister concern of the 3rd respondent company before the 1st respondent. The above aspect has been appreciated in proper perspective by the Labour Court and this Court does not find any perversity in the order passed by the Labour Court. Hence, the petitioner / Management is directed to settle the benefits within a period of eight weeks, if not already settled.

8. In the result, this writ petition stands dismissed with the aforesaid directions. No costs. Consequently, connected miscellaneous petition is closed.

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Rli

Index: Yes/No

NCS : Yes/No



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The Presiding officer,

II Additional Labour Court, Chennai.



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M.DHANDAPANI, J.

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