



W.P.No.20602 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**W.P.No.20602 of 2018
and
W.M.P.No.24222 of 2018**

The Management of Prime Date Forms (India)
Private Limited,
Represented by its Director, Mr.Mohan,
29, NP Plot, Sitco Industrial Estate,
Ekkattuthangal, Chennai - 600 032.

... Petitioner

Vs.

1. The Hon'ble I Additional Labour Court,
Represented by its Registrar,
Madras High Court Buildings,
Chennai - 600 001.

2. S.Murugadass

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Prohibition, prohibiting the first respondent from further adjudication in I.D.No.416 of 2017 on the file of the I Additional Labour Court at Chennai as the subject matter has become 'coram non judice'.



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For Petitioner : Mr.M.Nirmal Kumar
For Respondents : R1 - Labour Court
No appearance for R2

ORDER

This Writ Petition has been filed for a Writ of Prohibition prohibiting the first respondent from further adjudication in I.D.No.416 of 2017 on the file of the I Additional Labour Court at Chennai.

2. The petitioner is the Management engaged in the business of printing of computer forms and other paper products like thermal paper etc. Due to unprecedented rains and flooding at Chennai in December, 2015 the establishment submerged in the floods and sustained heavy loss, pursuant to the same, the petitioner Establishment got closed. The employees engaged by the petitioner Management were provided with salary and other benefits for the month of December 2015. The second respondent approached the Labour Officer (Conciliation), Chennai and initiated conciliation proceedings having reference number in M.M.No.89 of 2016 alleging that his service was terminated arbitrarily and sought for reinstatement with backwages and



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other benefits. The conciliation proceedings went on and the petitioner Management managed to pay substantial amount of one time settlement amounting to Rs.60,468/-, out of this, a sum of Rs.49,300/- was paid to the second respondent in various installments. However, the Conciliation Officer reported failure and referred the matter to the Labour Court. Thus, I.D.No.416 of 2017 was filed by the second respondent before the first respondent / Labour Court alleging illegal retrenchment and seeking reinstatement with full backwages and other benefits.

3. It is further submitted that the petitioner Management filed a written statement before the Labour Court stating that the second respondent employee has filed the Industrial Dispute suppressing the factum of closure of the petitioner Industry and therefore, the petitioner Management sought for dismissal of the Industrial Dispute. The petitioner Management also raised preliminary objection by way of memo dated 26.02.2018 before the Labour Court stating that according to Section 7 of the Industrial Disputes Act, 1947 titled 'Labour Courts', the Labour Courts



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may be constituted by appropriate Governments only 'for adjudication of industrial disputes relating to any matter specified in the Second Schedule'.

Since 'retrenchment of workmen and closure of establishment' are matters specified in the Third Schedule to the Act and not in the Second Schedule, this Hon'ble Court does not have jurisdiction to entertain the above I.D.No.416 of 2017 and it is liable to be dismissed in limine on that sole ground. However, the Labour Court, by order dated 03.04.2018 rejected the said memo. Hence, the petitioner Management filed the present Writ Petition seeking a Writ of Prohibition prohibiting the first respondent from further adjudication in I.D.No.416 of 2017.

4. The learned counsel appearing for the petitioner Management submits that the first respondent's jurisdiction with respect to the subject matter is clearly provided under the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act'). The Second and Third Schedules to the Act enumerate various dispute, that can arise and be adjudicated under the Act. As per the Act, the first respondent is empowered to adjudicate only



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those matters specified under Second Schedule to the aforementioned Act. However, 'retrenchment of workmen' is an entry in the Third Schedule to the Act and does not fall under the Second Schedule to the Act. The Act specifically empowers the first respondent, namely, the I Additional Labour Court, Chennai to adjudicate upon only those matters falling under the Second Schedule. Therefore, the dispute touching upon any entry under the Third Schedule can only be submitted to the Industrial Tribunal established under the Act and the first respondent / I Additional Labour Court, by entertaining a dispute touching upon entry 10 of the Third Schedule, has usurped the jurisdiction of the Industrial Tribunal. This preliminary objection was raised before the Labour Court by way of a memo dated 26.02.2018. However, the Labour Court without considering the same, has passed the impugned order dated 03.04.2018 which has triggered the petitioner Management to file the present petition for a Writ of Prohibition prohibiting the first respondent from further adjudication in I.D.No.416 of 2017.

5. Though the name of the learned counsel for the second



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respondent has been printed in the cause list, no one is appearing on behalf of him.

6. It is useful to refer Second and Third Schedules of the Industrial Disputes Act, 1947, which reads as under:

THE SECOND SCHEDULE

(See section 7)

MATTERS WITHIN THE JURISDICTION OF LABOUR COURTS

1. The propriety or legality of an order passed by an employer under the standing orders;
2. The application and interpretation of standing orders;
3. Discharge or dismissal of workmen including reinstatement of, or grant of relief to, workmen wrongfully dismissed;
4. Withdrawal of any customary concession or privilege;
5. Illegality or otherwise of a strike or lock-out; and
6. All matters other than those specified in the Third Schedule.



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THE THIRD SCHEDULE

(See section 7A)

MATTERS WITHIN THE JURISDICTION OF INDUSTRIAL TRIBUNALS

1. Wages, including the period and mode of payment;
2. Compensatory and other allowances;
3. Hours of work and rest intervals;
4. Leave with wages and holidays;
5. Bonus, profit sharing, provident fund and gratuity;
6. Shift working otherwise than in accordance with standing orders;
7. Classification by grades;
8. Rules of discipline;
9. Rationalisation;
10. Retrenchment of workmen and closure of establishment; and
11. Any other matter that may be prescribed.

7. Admittedly, the petitioner Management was closed down due to unforeseen circumstances on heavy loss. However, during the conciliation proceedings, the petitioner Management has mooted which efforts in paying compensation to the workmen adequately and in the case of the second respondent has paid a substantial amount as quantified by the Conciliation Officer. However, due to non-payment of the balance amount, the



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Conciliation Officer filed a failure report and thereby, referred the dispute to the Labour Court.

8. From a reading of the above Second and Third Schedules, it is clear that, any matter relied to the retrenchment of workmen and closure of Establishment should be adjudicated by the Industrial Tribunal and it does not fall within the jurisdiction of the Labour Court and this was precisely the objection raised by the petitioner Management by way of memo dated 26.02.2018. This Court has no hesitation to hold that the first respondent / Labour Court has no jurisdiction to entertain I.D.No.416 of 2017 and to decide the question raised by the parties therein. Accordingly, the order passed by the first respondent / Labour Court is untenable.

9. The Writ Petition is allowed and the first respondent / Labour Court is prohibiting the further adjudication in I.D.No.416 of 2017. However, the second respondent is at liberty to workout the remedy before the Industrial Tribunal in the manner known to law. No costs. Consequently,



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connected Miscellaneous Petition is closed.

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NCC: Yes / No

Index : Yes / No

Speaking Order : Yes / No

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To

The Registrar,
The Hon'ble I Additional Labour Court,
Madras High Court Buildings,
Chennai - 600 001.



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M.DHANDAPANI, J.

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