



W.P.No.26609 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.26609 of 2016

and

W.M.P.No.22797 of 2016

M/s.V.Narayanamurthy,
Represented by its Partner,
13-5-47/1, Canal Road,
Palakol – 534 260, Palakol Mandal,
West Godavari District,
Andhra Pradesh.

... Petitioner

Vs.

- 1.The Deputy Chief Labour Commissioner (C),
Chennai,
Ministry of Labour & Employment,
Officer of the Deputy Chief Labour Commissioner (C),
No.26, Haddows Road, Sastri Bhavan,
Chennai – 600 006.
- 2.The Secretary,
ONGC Heavy Vehicle Driver, Crane Operator
and Slinger Association,
44, Bypass Road, Tiruvarur – 610 001.
- 3.The General Secretary,
ONGC, Cauvery Project Drivers, Cleaners
Crane Operators, Slingers & other Employees Union',
2, Ariyapathra Pillai Street,



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Nagapattinam.

4.The General Secretary,
ONGC Cauverypadugai Kanaraga Vahana Tanker, Tempo Car,
Ambulance, Driver, Cleaner and Podhu
Thozhillargal Sangam.

- 5.J.Arulraj
- 6.N.Kannan
- 7.S.Mohan
- 8.T.Kumar
- 9.S.Kalyanasundaram
- 10.D.Antonysamy
- 11.T.Ayyar (D.Ayyar)
- 12.K.Thangam
- 13.A.Anbazhagan
- 14.P.Gunasekaran
- 15.K.Ramesh
- 16.R.Manoharan
- 17.S.Viswanathan
- 18.N.Saminathan
- 19.M.Gowthaman
- 20.U.Chandrasekaran
- 21.S.P.Devaraj
- 22.K.Suresh
- 23.S.Sasikumar
- 24.R.Pasupathi
- 25.V.Bhaskaran
- 26.M.Ramalingam
- 27.K.N.Sundaram
- 28.R.Sakthivel
- 29.S.Robert Clive
- 30.G.Sarabooji

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India



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for issuance of a Writ of Certiorari, calling for the records of the first respondent in No.M.8/2/2016-B1 dated 01.07.2016 directing the petitioner (Contractor) to pay one month wages in lieu of the notice to be given to the workers in writing under Section 25F(a) and also a compensation equivalent to 15 days average pay for every completed year of continuous service or any part thereof in excess of 6 months, within a period of 30 days from the date of issue of the order and to quash the same.

For Petitioner : M/s.S.Radha Gopalan

For Respondents : Mr.D.Simon
Central Government Standing
Counsel [R1]
Mr.P.Vijendran [R2, R7, R9,
R12 to R16, R18 to R25,
R27, R29 & R30]
No appearance [R3 & R4]

ORDER

This Writ Petition has been filed seeking for a Writ of Certiorari, to call for the records of the first respondent in No.M.8/2/2016-B1 dated 01.07.2016 directing the petitioner (Contractor) to pay one month wages in lieu of the notice to be given to the workers in writing under Section 25F(a) and also a compensation equivalent to 15 days average pay for every completed year of continuous service or any part thereof in excess



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of 6 months, within a period of 30 days from the date of issue of the order and to quash the same.

2. The case of the petitioner is that, the petitioner is a contractor owning trucks and trailers. Whenever the tenders are called for, the petitioner used to apply for the same and supply vehicles on contract basis if the tender is successful. One such tender was called for by the Oil and Natural Gas Commission (ONGC), Cauvery Asset on 28.04.2011 for hiring 11 nos. of 15m trailers on regular monthly basis for a period of three years from the date of issuance of work order. Subsequently, the petitioner was declared as successful bidder and has been awarded the contract for all the 11 trailers for a period of three years from 22.06.2011. For execution of the said contract, the petitioner used to hire labourers. As and when the contract ceases, the employment of the worker automatically ceases as per the provisions of the Contract Labour (Regulation and Abolition) Act, 1970 (in short 'the Act'). While so, the first respondent sent a notice in No.M.8/2/2016-B1 dated 29.03.2016 under the Industrial Disputes Act, 1947 (in short 'I.D. Act') requesting the petitioner to attend the conciliation proceedings to be held on 04.04.2016.



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The petitioner sent a reply dated 04.04.2016, wherein it was brought to the notice of the first respondent that stopping of vehicles without placing the disputes if any is illegal and abinitio void and there are no dues towards wages from the petitioner and the condition of service agreed upon with the worker/Unions have been fulfilled. However, the first respondent directed the petitioner to furnish list of workers of their establishment on or before 18.04.2016 and thereafter, the present impugned order is passed on 01.07.2016 directing the petitioner (Contractor) to pay one month wages to the workers. Aggrieved by the same, the above writ petition has been filed.

3. The learned counsel for the petitioner submits that the first respondent have no jurisdiction to decide the issue in between the petitioner and the private respondents/workmen. If at all any dispute arises, that has to be adjudicated only under the Contract Labour (Regulation and Abolition) Act, 1970, not under the Industrial Disputes Act, 1947 (in short 'I.D. Act). If the dispute is entirely under the I.D. Act, the first respondent has to refer the case to the Labour Court for submitting failure report, thereafter, the private respondents/workmen are



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entitled to raise the issue before the Labour Court. In the present case, the first respondent assuming the power of the Labour Court ordered for payment of compensation to the private respondents/workmen, which is not sustainable and on the ground of lack of jurisdiction, the above writ petition is filed. Accordingly, he prays for allowing the above writ petition.

4. The learned counsel appearing for the private respondents/workmen did not dispute the fact that the first respondent have no jurisdiction to award compensation, however, the jurisdiction is vest with the Labour Court. Accordingly, he prays that, this Court, may set aside the impugned order and remand the matter to the first respondent and direct the first respondent to send the failure report to the concerned Government, enabling the concerned Government to refer the dispute to the Labour Court, within a reasonable that may be fixed by this Court.

5. In view of the fair submissions made by the learned counsel



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appearing for the private respondents/workmen, the impugned order passed by the first respondent in No.M.8/2/2016-B1 dated 01.07.2016 is set aside and the first respondent is directed to send a appropriate report to the appropriate Government, within a period of two (2) weeks from the date of receipt of a copy of this order. If such failure report is received, the appropriate Government is directed to pass appropriate orders, within a period of four (4) weeks thereafter.

6. With the above directions, the Writ Petition is allowed. No costs.

Consequently, the connected miscellaneous petition is closed.

24.07.2023

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation Case : Yes / No

sp

To

The Deputy Chief Labour Commissioner (C),
Chennai,

Ministry of Labour & Employment,

Officer of the Deputy Chief Labour Commissioner (C),

No.26, Haddows Road, Sastri Bhavan,

Chennai – 600 006.



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M.DHANDAPANI, J.

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