



W.P.Nos.13544 to 13546 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.13544 to 13546 of 2018

A.Babu	... Petitioner in W.P.13544/2018
M.Jaganathan	... Petitioner in W.P.13545/2018
A.Subramani	... Petitioner in W.P.13546/2018

Vs.

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

2.The Management
Prime International India
Private Limited

... Respondents in all the W.Ps.

Common Prayer:

Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records and quash the award dated 15.03.2017 passed in I.D.Nos.4, 3 and 2 of 2015 respectively, by the first respondent Presiding Officer, Principal Labour Court, Vellore and consequently direct the second respondent to reinstate the petitioners in service with continuity of service, back wages and all other attendant benefits.

For Petitioners : Mr.E.Srinivasan
For Respondents : Mr.Tarun Gupta for R2
for M/s.Gupta and Ravi



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COMMON ORDER

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The petitioners have filed these writ petitions seeking issuance of Writ of Certiorarified Mandamus to call for the records and to quash the award dated 15.03.2017 passed in I.D.Nos.4, 3 and 2 of 2015 respectively, by the Presiding Officer, Principal Labour Court, Vellore and to consequently direct the second respondent to reinstate the petitioners in service with continuity of service, back wages and all other attendant benefits.

2.Since the issue involved in these writ petitions are one and the same, they are heard together and disposed of by way of a common order.

3.The case of the petitioners is that the petitioners were employed under the second respondent from 17.06.2009 to 14.03.2014, 2000 to 29.05.2014 and 2001 to 26.05.2014 respectively. The petitioners worked for more than 300 days per calender year from the date of their appointment, however, they were not paid with minimum wages, double wages for the over time work and were not issued with wage slips and ESI, PF. The petitioners were repeatedly requesting the second respondent Management to give



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them the above said statutory benefits and being irked by the same, the second respondent terminated the services of the petitioners.

4.The further case of the petitioners is that challenging their termination, the petitioners approached the Labour Officer, Vellore and since the conciliation proceedings failed, the Conciliation Officer submitted failure report. Thereafter, the petitioners raised industrial dispute before the first respondent under Section 2 A (2) of the Industrial Disputes Act seeking to reinstate them in service with continuity of backwages and other attendant benefits and the first respondent vide award dated 15.03.2017 dismissed the industrial disputes. Challenging the same, the petitioners have filed these writ petitions.

5.The learned counsel appearing for the petitioners submitted that the petitioners workmen worked for more than 14 years under the second respondent Management and the second respondent Management is not in the habit of issuing wages slip to enable the petitioners to work out the claim for differential wages. Further, the petitioners were not given double wages for the over time work and



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the second respondent Management failed to pay ESI and PF contribution. For availing such statutory benefits, the petitioners made repeated requests to the second respondent Management, however, the petitioners were terminated from service.

6.The learned counsel appearing for the petitioners further submitted that the petitioners raised industrial dispute before the first respondent under Section 2 A (2) of the Industrial Disputes Act seeking to reinstate them in service with continuity of backwages and other attendant benefits. To substantiate their claim, the petitioners marked exhibits Exs.W1 to W11, Exs.W1 to W10 and Exs.W1 to W9 respectively and also examined one witness, however, the first respondent without considering the same, mechanically dismissed the industrial disputes, which is not sustainable and contrary to Section 25N of the Industrial Disputes Act and contrary to 25 O (o) of the Industrial Disputes Act.

7.Per contra, the learned counsel appearing for the second respondent submitted that the petitioners did not work for more than 240 days in a calender year. They were irregular to work. Inorder to



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prove their irregularity in work, before the Labour Court, the second respondent Management marked the attendance register as Ex.M2, Ex.R1 and Ex.M1 respectively. Further, the petitioners were also doing other works like real estate, marriage broker etc., and were gainfully employed and when the second respondent Management came to know about the same and enquired about the same, the petitioner raised the claim that they were not paid with minimum wages, double wages for the over time work and were not issued with wage slips and ESI, PF.

8.The learned counsel appearing for the second respondent further submitted that if the petitioners are aggrieved that they were not paid with minimum wages, they have to make application under the Payment of Minimum Wages Act; if the petitioners are aggrieved that the second respondent Management failed to pay ESI and PF contribution, they have to make application before the competent forum under the ESI and PF Act and without doing so, the petitioners have raised industrial dispute under the Industrial Disputes Act, which is not sustainable one.



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9.The learned counsel appearing for the second respondent further submitted that if the petitioners report to duty even today, the second respondent Management is ready to engage the petitioners as fresh entrant.

10.Heard the arguments advanced on either side and perused the materials available on record.

11.Perusal of records disclose that the petitioners had made complaint to the Joint Director, Industrial Safety and Health as if they had worked for more than 14 years under the second respondent Management, however, the second respondent Management has not issued wages slip and that they were not given minimum wages, double wages for the over time work and that the second respondent Management failed to pay ESI and PF contribution. Thereby, the Joint Director inspected the second respondent premises and found that pay slips were issued to the workmen under the second respondent and they were paid double wages for the over time work and ESI contributions were also made to the workmen. Further in the conciliation proceedings, the second respondent Management has filed a detailed counter rejecting the allegations made by the petitioners



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and they agreed to engage the petitioners at the relevant point of time.

12.Further, the documents marked by the petitioners before the Labour Court reveals that there was no oral termination and there is also no threat of oral termination. Hence, the Labour Court arrived at a categorical conclusion that the petitioners are dis-entitled to the relief sought for by them and rightly dismissed the industrial disputes raised the petitioners.

13.This Court under Article 226 of the Constitution of India cannot re-appreciate the factual findings rendered by the Labour Court and hence this Court is not inclined to interfere with the order impugned in these writ petitions.

14.These writ petitions are dismissed. However, if the petitioners report for duty, the second respondent Management shall engage the petitioners as fresh entrants. No costs.

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Speaking Order/ Non Speaking Order
Index: Yes/ No Internet: Yes/ No

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M.DHANDAPANI,J.
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To

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

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