



W.P.No.15045 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2023

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.15045 of 2018

V.Sivaraj

...Petitioner

Vs.

1. The Central Government Industrial Tribunal
cum Labour Court,
Chennai.
2. The Additional Commissioner of Central Excises,
O/o. The Commissioner of Central Excises,
6/7, ATD Street, Race Course Road,
Coimbatore – 641 018.

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records pertaining to the order dated 06.07.2015 passed in I.D.No.76 of 2014 on the file of the first respondent and quash the same.

For Petitioner : Mr.C.D.Sugumar

For Respondents : Mr.A.P.Srinivas, SSC, for R2



W.P.No.15045 of 2018

ORDER

This Writ petition has been filed seeking quashment of the order of the

1st respondent dated 06.07.2015 made in I.D.No.76 of 2014.

2. The case of the petitioner is that, he was appointed as a contingent worker in the respondent department on 20.11.1998 and his duty was to clean the Cargo Complex premises in Coimbatore Airport and he was paid a sum of Rs.1000/- per month as salary and the same was later raised to Rs.2000/- per month. While so, for the reasons best known to them, the 2nd respondent orally terminated the services of the petitioner on 13.01.2007, aggrieved by which, the petitioner filed O.A.No.749 of 2008 on the file of the Central Administrative Tribunal, Chennai, seeking reinstatement with attendant benefits, however, the said petition was dismissed, vide order dated 10.03.2010. Challenging the said order dated 10.03.2010, the petitioner filed W.P.No.19121 of 2011 and this Court, vide order dated 18.08.2011 set aside the order of the Central Administrative Tribunal dated 10.03.2010 made in O.A.No.749 of 2008. Pursuant to the order of this Court, the petitioner raised an industrial dispute in I.D.No.76 of 2014 before the 1st respondent, who in turn, without ascertaining any of the facts,



W.P.No.15045 of 2018

dismissed the dispute raised by the petitioner, vide present impugned award dated 06.07.2015. Challenging the same, the petitioner is before this Court.

3. Learned counsel for the petitioner submitted that, he joined the service of the 2nd respondent in the year 1998 and he had been discharging his duties sincerely without any default. Though the petitioner had been continuing as contingent employee in the 2nd respondent department from the year 1998 and the same is evident from various documents, however, with an ill-motive to deny the petitioner the benefits of permanent workmen, his service was orally terminated by the 2nd respondent. Further, though the petitioner examined himself before the 1st respondent and marked exhibits W1 to W15 in order to substantiate his claim, not even a single exhibit has been marked by the 2nd respondent on their behalf before the 2nd respondent, in order to prove that the petitioner was not employed under them. However, the 1st respondent, without perusing any of the above said documents, had mechanically dismissed the dispute raised by the petitioner, by present impugned award, which is not sustainable and accordingly, he prayed for appropriate orders.

4. Learned counsel appearing for the 2nd respondent filed a counter



W.P.No.15045 of 2018

stating that, as per the definition given for the term 'Industry' in Industrial Disputes Act, 1947, the 2nd respondent department does not fall under the said category and the employee, irrespective of his/her nature of employment in the respondent department, cannot, by virtue of having worked, be considered as 'workmen' and thereby the provisions of the ID Act are not applicable to the petitioner and accordingly, the dispute raised by the petitioner is not maintainable. It is the further submission that though it is the contention of the petitioner that, many employees who entered service after the petitioner and who discharged similar duties like that of the petitioner, were paid salary in regular time scale of pay and were made permanent, however, the same is not true and no such individuals were made permanent, while working as contingent workers and the 1st respondent, after taking into consideration all the material evidence produced by the petitioner, dismissed the dispute in I.D.No.76 of 2014, by present impugned award dated 06.07.2015 and the same does not warrant interference of this Court and accordingly, prayed for dismissal of this Writ petition.

5. A perusal of the material documents placed on record particularly



W.P.No.15045 of 2018

the order under challenge reveal that, the petitioner joined the service of the 2nd respondent in the year 1998 and later he was orally terminated from service on 13.01.2007, aggrieved by which, the petitioner filed O.A.No.749 of 2008, which was dismissed, by order dated 10.03.2010 and subsequently, pursuant to the order of this Court dated 10.03.2010 made in W.P.No.19121 of 2011, the matter landed before the 1st respondent and the same was taken up on file in I.D.No.76 of 2014, in which the present impugned award dated 06.07.2015 came to be passed.

6. Though the petitioner claims that he marked exhibits W1 to W15, however, it is pertinent to note that, among the above said exhibits, no documents were filed by the petitioner to show that he was in continuous employment of 480 days in two calendar years in the 2nd respondent department and in the absence of establishing the same through proper documents, the 1st respondent had dismissed the dispute raised by the petitioner, holding that the material documents submitted by the petitioner are not sufficient to show that the petitioner worked with the respondent department as a direct employee at any time. In the absence of any convincing materials, which show otherwise that the workman was in



W.P.No.15045 of 2018

continuous employment for 480 days, this Court does not find any fault with the order passed by the Tribunal and is not inclined to interfere with the same. There being no perversity in the findings of the 1st respondent, no interference is warranted. This Court is of the view that the prayer sought for by the petitioner is misconceived and, hence, is not inclined to issue any affirmative direction in favour of the petitioner.

7. For the reasons aforesaid, this Writ petition stands dismissed. No costs.

11.09.2023

skt

NCC : Yes/ No
Speaking Order : Yes/ No
Index : Yes/ No

To

1. The Central Government Industrial Tribunal cum Labour Court,
Chennai.
2. The Additional Commissioner of Central Excises,
O/o. The Commissioner of Central Excises,
6/7, ATD Street, Race Course Road,
Coimbatore – 641 018.

M.DHANDAPANI, J.

6/7



WEB COPY



W.P.No.15045 of 2018

skt

W.P.No.15045 of 2018

11.09.2023