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WP.No.4421 of 2004

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.09.2023

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

W.P. No.4421 of 2004

1. V.Karthikeyan (deceased)
 2. K.Ramesh
 3. K.Bakkiyanathan
 4. V.Arjunan
 5. A.Jayagopi
 6. L.Parasuraman
 7. R.Murugan
 8. S.Arumugam (Deceased)
 9. Ramathilagam
 10. Vatsala
 11. A.Rajeswari
 12. A.Mahesh
 13. T.M.Sundaramurthy
 14. S.Palaniammal
- (P9 & P10 impleaded as LR's of the deceased
1st petitioner and P11 to P14 impleaded as
LR's of the deceased 8th petitioner as per
Court order dated 22.12.2008 in WPMP No.
1852 of 2008 in W.P.No.4421 of 2004)

.... Petitioners

Vs

1. The Presiding Officer,
Labour Court, Vellore.
2. The Management,
Murugappa Morgan Thermal Ceramics Ltd.,
SIPCOT, Ranipet – 632 403.

.... Respondents



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PRAYER: Writ Petition filed under Article 226 of Constitution of India praying to issue Writ of Certiorari by calling for the records from the files of the 1st respondent in I.D.Nos.295 of 2002, 321 of 2002 to 327 of 2002 and quash its impugned Award dated 20.10.2003 insofar as the 1st respondent has denied and negatived the claim of the petitioners for reinstatement in service, with continuity of service, with back wages and with all other attendant and consequential benefits.

For Petitioners	:	Mr.S.T.Varadarajulu
For R1	:	Court
For R2	:	Mr.S.Haroon
		for M/s.T.S.Gopalan & Co.,

ORDER

This Writ Petition has been filed challenging the common award dated 20.10.2003 passed by the first respondent, thereby insofar as the denial of the claim of the petitioners' for reinstatement in service, with continuity of service, with back wages and with all other attendant and consequential benefits.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The case of the petitioners is that the petitioners had joined in service of the second respondent in the year 1995-1996 as Non-muster



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roll employees. Though they were engaged regularly and as per the nature of work, the second respondent treated them as casual employees.

However, from their salaries, the second respondent contributed towards EPF and ESI. The petitioners were also paid annual bonus. They were also involved in direct production jobs like the other permanent workmen. Even after completion of 240 days of continuous service in two calendar years, the second respondent did not regularize their services as permanent employees as per Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workmen) Act, 1981.

4. The second respondent, in order to deny the status and benefits of permanency to the petitioners, adopted a dubious means by branding them as Trainees on completion of 480 days of continuous service. However, no training was given to the petitioners and the nomenclature assigned to them as Trainees is a make believe arrangement. While being so, the second respondent dispensed with the services of the petitioners on and from 30.03.2002 alleging that they had completed their training. While dispensing with the services of the petitioners, the second respondent Management did not comply with the mandatory requirements as contemplated under Section 25F of the



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Industrial Disputes Act, 1947, thereby the second respondent resorted to unfair labour practice by discontinuing the services. Therefore, the petitioners raised Industrial Dispute before the first respondent under Section 2-A(2) of the Industrial Dispute.

5. The learned counsel appearing for the petitioner would submit that the petitioners were initially engaged as casual labourers and thereafter, they were converted as Trainees, though they were involved in regular production jobs. Therefore, it is nothing but an unfair labour practice evolved to deny the benefits of permanent status. Admittedly, the petitioners had worked from the year 1995 to 2002 and they completed 480 days of their services continuously in the given two calendar years as contemplated under Section 3 of the Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workmen) Act, 1981. In fact, the second respondent also contributed EPF and ESI to the authorities concerned from their salaries. The petitioners were qualified I.T.I. Diploma Holders and even then they were appointed as Trainee that too after five years of their appointment. However, the Labour Court failed to consider the above and ordered only meagre compensation.

6. The second respondent filed counter stating that the



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petitioner were appointed for a specific period and their employment automatically came to an end. Therefore, the said cessation of employment by efflux of time would not amount to termination. In any event, it would also not be a retrenchment having regard to Section 2(oo)(bb) of the Industrial Disputes Act. Therefore, the Labour Court rightly rejected the claim of the petitioner under Section 2-A(2), since the Labour Court has no power of jurisdiction to order reinstatement of the petitioner into service. However, without any justification, the Labour Court awarded compensation of Rs.20,000/- each to the petitioners on sympathetic grounds.

7. A perusal of the records shows that the petitioners raised Industrial Dispute under Section 2A of the Industrial Disputes Act contending that earlier cessation of employment on 30.03.2002 would amount to termination of employment. It would amount to retrenchment and it was in violation of Section 25F of the Industrial Disputes Act. Even according to the petitioners, initially, they were engaged as casual labourers by the second respondent. After considering their qualification, they were appointed as Trainees for a period of two years till 30.03.2002. After completion of the period, the employment automatically came to an



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end at the end of the period and the said cessation of employment by efflux of time. Therefore, it would not amount of termination. In any event, it would not be retrenchment having regard to Section 2(oo)(bb) of the Industrial Disputes Act. The petitioners raised Industrial Disputes under Section 2A of the Industrial Disputes Act.

8. The learned counsel appearing for the second respondent relied upon the Judgment reported in *(2007) 1 SCC 610* in the case of *Bharat Heavy Electricals Ltd., Vs. Anil and others*, in which the Hon'ble Supreme Court of India held that there is a difference between an individual dispute which is deemed to be an industrial dispute under Section 2A of the Industrial Disputes Act. The industrial dispute espoused by the Union in terms of Section 2(k) of the Industrial Disputes Act. An individual dispute, which is deemed to be an industrial dispute under Section 2-A concerns discharge, dismissal, retrenchment or termination whereas an industrial dispute under Section 2(k) covers a wider field. It includes even the question of status. Before Section 2A nothing more than to declare an individual dispute to be an industrial dispute. It does not amend the definition of industrial dispute set out in Section 2(k) of the Industrial Disputes Act. Therefore, the Labour Court



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rightly rejected the dispute raised by the petitioner under Section 2A(2) of the Industrial Disputes Act, since the petitioners were engaged by the second respondent only as casual labourers. Subsequently, they were appointed as Trainees that too for a specific period. After completion of the said period, the employment automatically came to an end at the end of the said period. Therefore, it does not amount retrenchment.

9. In view of the above, this Court finds no infirmity or illegality in the impugned Award dated 20.10.2003 passed by the first respondent. Thus, the writ petition is devoid of merits and is liable to be dismissed. Accordingly, this Writ Petition stands dismissed. There shall be no order as to costs.

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Index:Yes/No
Internet:Yes/No
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To

The Presiding Officer,
Labour Court, Vellore.

G.K.ILANTHIRAIYAN,J.

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