



W.P.Nos.16478 to 16483 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.09.2023

CORAM

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

W.P.Nos.16478 to 16483 of 2018

W.P.No.16478 of 2018:

C.Sangeetha

...Petitioner

Vs.

1. The Presiding Officer,
Labour Court, Salem.

2. The Management of Waverly Estate
Nagalur Post, Yercaud – 636 602.

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent pertaining to the award passed by the 1st respondent dated 11.12.2014 in I.D.No.526 of 2004 and quash the same and consequently hold that the oral termination of the petitioner w.e.f. 14.01.2004 is illegal and unjustified and further direct the 2nd respondent to reinstate the petitioner with effect from 14.01.2004 with backwages, continuity of service and other attendant benefits.

In all W.P's.:

For Petitioner : Ms.C.S.Monica

For Respondents : Mr.G.Jeremiah, for R2



W.P.Nos.16478 to 16483 of 2018

WEB COPY

COMMON ORDER

Since the issue involved in all these Writ petitions are similar in nature, they are disposed of by way of this common order.

2. These Writ petitions have been filed seeking quashment of the orders passed by the 1st respondent in the respective I.D's raised by the petitioners herein and to consequently hold that the oral termination of the petitioners w.e.f. 14.01.20014 is illegal and for a further direction to the 2nd respondent to reinstate the petitioners with backwages, continuity of service and other attendant benefits.

3. For brevity, the petitioner in all the Writ petitions are hereinafter referred to as workmen and the 2nd respondent in all the Writ petitions are referred to as the management.

4. The case of the petitioners is that, they were employed in the respondent management continuously for several years prior to their



W.P.Nos.16478 to 16483 of 2018

termination. While so, as the workmen herein denied to work on contract basis from 03.11.2003, the management refused to pay wages to them from 03.11.2003. Thereby, the workmen gave a complaint to the Inspector of Plantations, Yercaud through their union. In the meanwhile, the management called upon the workmen and directed them to withdraw the complaint and also the case pending before the Labour Officer, Salem bearing Ref.Na.Ka.No.1035 of 2003, pertaining to payment of back wages with continuity of service for the illegal denial of employment for the period from 07.04.2003 to 04.05.2003. However, as the workmen refused to do so, they were denied employment since 14.01.2004, and despite the repeated request made by them, the workmen were not provided with employment. Therefore the workmen raised separate Industrial Disputes before the 1st respondent, who in turn, without considering any of the above said facts, by impugned orders, dismissed the disputes raised by the workmen. Challenging the same, the workmen have come up with these Writ petitions.

5. Learned counsel for the workmen submitted that, though the workmen herein have worked with the management for several years, however, the management extracted the work from them without entering



W.P.Nos.16478 to 16483 of 2018

their names in the NMR list and had paid the wages to them only in cash and sometimes they issued vouchers. Further, as the workmen have refused to work on contract basis, as the same is illegal, the management, in order to wreck vengeance, initially denied to pay wages to them from 03.11.2003 and thereafter, denied employment to the workmen, which is clearly illegal. Further, though the management received the representation dated 19.01.2004 sent by the workmen seeking to provide them with employment, however, they never sent any reply. He further submitted that, though the Labour Court passed the present impugned orders on the ground that, the workmen have failed to establish the employer-employee relationship in between the management and them, however, it is pertinent to note that, one Rathinam, the management witness in one of the case filed by another workman, had clearly deposed that, the workmen herein were employed with the management, which itself shows that, the workmen have worked with the management and there is employer-employee relationship in between the management and the workmen. Further salary receipts were marked as exhibits which is sufficient to substantiate their case. Further, the Muster roll and salary receipts, which were marked by the management are illegal and fraudulently created by the management, as the signature of the



W.P.Nos.16478 to 16483 of 2018

Manager are different in them. However, the labour court, without considering any of the above said facts and without verifying the genuineness of the documents marked by the management, had mechanically rejected the disputes raised by the workmen, which is wholly unsustainable.

6. Learned counsel appearing for the management submitted that, the present writ petitions filed by the workmen as against the management itself are not maintainable, since the workmen at no point of time have worked with the management and there is no employer-employee relationship in between the management and the workmen. Though the workmen claim that, despite sending a representation dated 19.01.2004 seeking to provide them with employment, there was no response from the management, however, it is pertinent to note that, on 04.02.2004, the management sent a detailed reply to the workmen, even in which, the management had clearly stated that the workmen are not the employees of the management and at no point of time, the management called upon the workmen herein and have not asked them to withdraw the case and the complaint filed by them and it is clear illegal act of the workmen in order to destroy the reputation of the



W.P.Nos.16478 to 16483 of 2018

management. Further, the management have marked exhibits in the form of yearly salary register pertaining to daily wage employees for the period 2000-2004, in which the workmens' names find no place and even a bare perusal of which itself is sufficient to hold that, the workmen have not worked with the management at any point of time. Hence, the Labour Court, after carefully perusing the said documents, arrived a conclusion that the workmen herein are not employed with the management and there is no employer-employee relationship in between them. Further, though the workmen claim that, they worked with the management for more than about 10 years, however, not even a single document has been filed by them either before the Labour Court or before this Court to show that they were in continuous employment for 240 days in a calendar year. Hence, in the absence of any documents, the Labour Court, by the impugned orders, had rightly dismissed the disputes raised by the workmen, which is perfectly in order and the same does not warrants interference of this Court. Accordingly, he prayed for dismissal of these Writ petitions.

7. Heard learned counsel on either side and perused the available documents.

6/11



W.P.Nos.16478 to 16483 of 2018

WEB COPY

8. It is alleged by the workmen that, they were employed in the 2nd respondent management for several years on regular basis and as they refused to work on contract basis, they were denied employment as on 14.01.2004.

9. A perusal of the materials placed on record particularly the impugned award reveals that, as rightly pointed out by the learned counsel appearing for the management, though the workmen claim that they were in continuous employment of the management for several years, however, except Ex.P4, the salary receipts alleged to have been given by the management, no other documents were filed by the workmen to show their continuous employment of 240 days in a calendar year with the management.

10. Even from the reply dated 04.02.2004 sent by the management it is clear that, the management from the initial point of time have disputed the employment of the workmen as their employees and there exists no employer-employee relationship in between them. Once the management



W.P.Nos.16478 to 16483 of 2018

denied the claim of the workmen, automatically the responsibility shifts to the shoulders of the workmen to prove and to establish that they are in continuous employment of the management and there exists employer-employee relationship in between the management and workmen. However, the workmen have miserably failed to establish the same and further when the workmen claim that they were employed with the management for several years, not even submitting a single document to show their employment with the management is unacceptable. Even if the workmen are handicapped with sufficient documents to prove their case, they should have taken earnest steps to obtain the same from the management or at least, it should have requested for a direction to the management to produce the documents, which was not done by the workmen.

11. Hence, in the absence of any documents, the Labour court had rightly dismissed the disputes raised by the workmen holding that, the workmen were not employed with the management and there is no employer-employee relationship in between the management and the workmen, in which this Court does not finds any fault and is not inclined to interfere with the same.



W.P.Nos.16478 to 16483 of 2018

WEB COPY

12. For the reasons aforesaid, these Writ petitions stand dismissed. No costs.

14.09.2023

skt

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

To

The Presiding Officer,
Labour Court,
Salem.



WEB COPY



W.P.Nos.16478 to 16483 of 2018

M.DHANDAPANI, J.

skt

W.P.Nos.16478 to 16483 of 2018



WEB COPY



W.P.Nos.16478 to 16483 of 2018

14.09.2023