



WEB COPY



WP.No.42638 of 2016

In the High Court of Judicature at Madras

Dated : 24.8.2023

Coram :

The Honourable Mr.Justice M.DHANDAPANI

Writ Petition No.42638 of 2016
& WMP.No.36555 of 2016

The Management of
South India Corporation
Ltd., No.603, Anna Salai,
Chennai-6.

...Petitioner

Vs

1.The Presiding Officer,
First Additional Labour
Court, High Court Building,
Chennai-104.

2.P.Ramesh (deceased)

3.M/s.Chettinad Logistics (P)
Ltd., No.603, Anna Salai,
Chennai-6.

4.R.Uma

5.R.Gowtham

6.L.Parvathi

(R4 to R6 were impleaded as legal heirs of
the deceased second respondent vide
order of court dated 13.7.2023 in WMP.No.
2248 of 2022 by MDIJ)

...Respondents



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PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records pertaining to the award dated 15.4.2016 in I.D.No.498 of 2006 on the file of the First Additional Labour Court, Chennai and quash the same.

For Petitioner : Mr.V.Ragavachari, SC for
Mr.M.Praveen Kumar
For Respondent-3 : Mr.P.S.Ganesh
For Respondents 4 to 6 : Mr.T.Ramkumar

ORDER

This is a petition filed by the petitioner seeking to quash the order dated 15.4.2016 in I.D.No.498 of 2006 on the file of the first respondent.

2. The facts leading to filing of this case are as follows :

(i) The second respondent joined the services of the petitioner in the year 1994 at Tuticorin initially and thereafter, he was transferred to Puliur and Chennai where he served till September 2004. The third respondent is a group company of the petitioner and started its business operations in the year 2003. The petitioner decided to bifurcate the transport, trucks and equipment division and accordingly, merged the same with the third



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respondent.

(ii) As a consequence, the three employees working in the transport, trucks and equipment division of the petitioner, including the second respondent, were relieved from the services of the petitioner and absorbed by the third respondent from 01.10.2004 with continuity of service. The salary for the month of September 2004 was paid by the petitioner and thereafter, from the month of October 2004 till March 2005, the salary of the second respondent was paid by the third respondent. From 01.10.2004 onwards, there was no employer and employee relationship with the petitioner and the second respondent.

(iii) Thereafter, at the instance of the petitioner, the entire gratuity amount due to the petitioner upto 30.9.2004 was transferred to the third respondent. From 01.10.2004 onwards, the second respondent was working in the Lorry Division of the third respondent at Chennai. After absorption in the third respondent, the second respondent was given a new provident fund account. The employer's contribution to all the absorbed employees including the second respondent was remitted only by the third respondent.

(iv) The second respondent was transferred to Dalavoi and again



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transferred back to Chennai. However, he left the services of the third respondent without any intimation or permission. The second respondent was terminated from the services of the third respondent from May 2005. The conciliation proceedings initiated against the petitioner at the instance of the second respondent also ended in failure.

(v) Pursuant to that, the second respondent filed the industrial dispute before the first respondent on the ground that he was only deputed to the third respondent and not absorbed by the third respondent. In the industrial dispute, the petitioner alone was arrayed as the respondent and only subsequently, the third respondent was impleaded, which would show that the second respondent ceased to be the employee of the petitioner. It was also admitted by the second respondent before the Labour Court that he was gainfully employed somewhere else from November 2013.

(vi) After hot contest, the first respondent passed the impugned award directing the petitioner to reinstate the second respondent notionally with continuity of service and pay the back wages and all other attendant benefits from 01.5.2005 to 31.10.2013. The petitioner was also directed to pay all the statutory dues as if the second respondent underwent voluntary



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retirement on 31.10.2013. Challenging the same, the petitioner is before this Court.

3. During the pendency of the writ petition, the second respondent died and his legal heirs were impleaded vide order dated 13.7.2023 in WMP.No.2248 of 2022.

4. The learned counsel for the petitioner submits that during the pendency of this writ petition, there was an amicable settlement between the petitioner and the legal heirs of the second respondent and the petitioner agreed to pay a sum of Rs.10,00,000/- in full quit in favour of the legal heirs of the second respondent within the period that may be stipulated by this Court.

5. The learned counsel for the respondents 4 to 6 did not dispute the facts submitted by the learned counsel for the petitioner.

6. Heard the learned Senior Counsel appearing on behalf of the



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petitioner, the learned counsel for the third respondent and the learned counsel appearing for respondents 4 to 6/ legal heirs of the deceased second respondent.

7. In view of the settlement arrived between the parties, this Court is inclined to modify the award dated 15.04.2016 passed by the first respondent as hereunder:

The petitioner / management is directed to pay a sum of Rs.4,00,000/- each in favour of the wife and son of the deceased / second respondent and a sum of Rs.2,00,000/- in favour of the mother of the second respondent by way of demand draft within a period of six (6) weeks from the date of receipt of a copy of this order.

8. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

24.8.2023

rap

Index : Yes (or) No

Neutral Citation : Yes (or) No

Speaking Order : Yes (or) No

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To

The Presiding Officer,
First Additional Labour
Court, High Court Building,
Chennai-104.



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