



WEB COPY



W.P.Nos.1690 to 1697 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2023

CORAM :

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

W.P.Nos.1690 to 1697 of 2018
and
W.M.P.Nos.2093 to 2100 of 2018

W.P.No.1690 of 2018

The Management,
Sri Devi Karumariamman Steel Pattarai,
Rep. by its Proprietor,
N.Ponnusamy,
No.27, Mangai Nagar,
Pillayar Koil Street,
Jafferkhanpet,
Chennai – 83.

... Petitioner

Vs.

1.The Presiding Officer,
I Additional Labour Court,
Chennai.

2.K.Karthik

... Respondents

Prayer in W.P.No.1690 of 2018 : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records pertaining to the award passed by the 1st respondent in I.D.No.15 of 2013 dated 14.11.2017 and quash the same as illegal, incompetent and ultravires.



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For Petitioner : Mr.Stalin
(in all WPs) for M/s.K.Suthan
For Respondents : Court [R1]
(in all WPs) Mr.V.Ajoy Khose [R2]

COMMON ORDER

Since the issue raised in these writ petitions are one and the same, with the consent of the learned counsel appearing for parties, these Writ Petitions were heard together and disposed of by this common order.

2. The case of the petitioner management is that, the respective second respondent/workmen are working in the petitioner's shop and the petitioner management pay them on the daily wage basis for the work done by them on a particular day. The respective second respondent are not continuous workmen in the petitioner management and they received lumpsum amount from the petitioner management and thereafter, they completely stopped to come to work. Thereafter, the workmen have initiated proceedings under Section 2A of the Industrial Disputes Act, 1947 (in short 'the I.D. Act') before the conciliation officer and the conciliation officer submitted a failure report, pursuant to which, they raised respective



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industrial disputes under Section 2A(2) of the I.D. Act before the first respondent on the ground that the workmen were illegally retrenched from service contrary to Sections 25(F) and 25(G) of the I.D. Act. The said issue was not properly adjudicated by the first respondent and the first respondent had mechanically passed an order for payment of compensation to the workmen, which is not sustainable. Challenging the same, the above writ petitions have been filed before this Court.

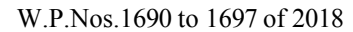
3. The learned counsel for the petitioner management submitted that, before the first respondent/Labour Court, three issues were framed (i) whether the Industrial Dispute is maintainable before the Labour Court (ii) whether there was an oral termination and (iii) whether the workmen are entitled to the reliefs as prayed for, however, it is negatived as against the petitioner management. He also submits that, there is no oral termination or retrenchment contrary to Sections 2(oo) and 25(G) of the I.D. Act. Further, he submits that, the petitioner management is not bound by the I.D. Act as it is not an industry by itself since it has only five workman, however, the Labour Court, without considering the same, had mechanically entertained the disputes raised by the workmen and awarded huge compensation in



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favour of the workmen, which is not sustainable. Accordingly, he prays for allowing these writ petitions.

4. The learned counsel appearing for the respective second respondent/workmen submitted that, they have established their case before the Labour Court that, there was an employee-employer relationship by marking necessary documents. In fact, the Labour Court, by perusing Ex.W.1 to Ex.W.4, found that the workmen were working in the petitioner management for several years. Further, he submits that, through Ex.W6, the respective workmen claimed gratuity amount and other benefits and the same was replied by the petitioner management through Ex.W.7 stating that as if the workmen after receiving advance amount from the petitioner management, they have voluntarily stopped to come for work. Those documents itself sufficient to show that, there was an existing employee-employer relationship between the petitioner management and the workmen. The said issue was properly considered by the Labour Court and held against the petitioner management. Further, not providing employment to the respective workmen is contrary to Sections 2(oo), 25(F) and 25(G) of the I.D. Act. Accordingly, he prays for dismissal of these writ petitions.



6. Admittedly, though the petitioner management admitted the employee-employer relationship between the workmen and themselves, however, they resisted their claim that, they are not coming under the purview of the I.D. Act, since a few members are employed in their management.

7. Before the first respondent/Labour Court, on behalf of the respective workmen, Ex.W.1 to Ex.W.10 was marked and the respective workmen examined themselves as W.W.1 and on behalf of the petitioner management, two witness were examined as M.W.1 and M.W.2., however, they were not subjected for cross examination by the workmen and they marked only few documents, which were not relevant to the workmen and not relates to the nature of the work employed by the workmen in the petitioner management.



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8. Further, the Labour Court also arrived a conclusion that, after retrenchment, the workmen have gainfully employed with some other industry, thereby, in order to strike balance in between the petitioner management and the workmen, the Labour Court had awarded meagre compensation to the workmen in the year 2017, which cannot be interfered with. However, this Court is inclined to direct the petitioner management to pay the said compensation to the workmen as awarded by the Labour Court.

9. Accordingly, these writ petitions are dismissed. However, the petitioner management is directed to pay the entire compensation to the respective second respondent/workmen as awarded by the Labour Court, within a period of four (4) weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petitions are closed.

21.07.2023

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
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To

The Presiding Officer,
I Additional Labour Court,
Chennai.



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M.DHANDAPANI, J.

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