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W.P.No.4820 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.4820 of 2016

and W.M.P.No.4165 of 2016

The Management
Writer Information P Ltd
Having Office at No.159/1A, GST Road,
Vandalur, Kanchepuram Chennai-600 028.

.. Petitioner

Vs.

1. The Presiding Officer,
2nd Additional labour Court,
Labour Court,
City Civil Court Buildings,
Chennai-600 104.

2. I.Lakshmi,
3.A.Aachi
4.A.Chandra
5.S.Veronicaka
6.K.Ranjitham
7.D.Chinna
8.A.Janaki

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ or order or direction more particularly a Writ of Certiorari to call for the records on the file of the first respondent, quash the award dated 20.11.2014 made in ID Nos.102 to 108 of 2012.



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For petitioner : Ms.Srinidhi Srinivasan
for T.M.Naveen & L.Mahesh
For Respondents : Mr.B.Gandhi for R2 to R8.

ORDER

Aggrieved by the order passed by the 1st respondent, the petitioner is before this Court.

2. It is the case of the petitioner that the petitioner company entered into an agreement between the petitioner and the Dolby Corporation. Pursuant to which, the respondents 2 to 8/workmen who were hired from the Dolby Corporation joined the duty in the petitioner company on 01.04.2002 as housekeeping staff and they are paid their monthly salary by the Dolby Corporation. While so, during the month of July 2009, the respondents 2 to 9 have demanded ESI benefits, promotion and other monetary benefits from the petitioner company, however, their claim was rejected and they were orally terminated from services. Aggrieved by the same, they filed a petition before the conciliation officer demanding reinstatement with other benefits and continuity of service. Since the conciliation proceedings ended in failure, the respondents 2 to 9 raised an



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industrial dispute by way of claim petitions before the 1st respondent/labour court pursuant to which, the impugned award in I.D.Nos.102 to 108 of 2012 came to be passed in favour of the workmen. Aggrieved by the same, the petitioner is before this Court.

3. Learned counsel for the petitioner submitted that respondents 2 to 8/workmen were only the contractual employees of the petitioner company hired through the Dolby Corporation. The respondents 2 to 8/workmen claims to be the actual employees of the petitioner, however, no proof has been placed by them before the labour court in order to establish the employer-employee relationship between the petitioner company and the respondents 2 to 8/workmen. However, the grievance of the petitioner is that though the petitioner had produced all the necessary documents before the labour court, without considering the same, the impugned award has come to be passed. Hence, the same is liable to be interfered with.

4. On the above contention, this Court heard the learned counsel appearing for the respondents 2 to 8 who made his submissions on the basis



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of the counter affidavit filed on behalf of respondents 2 to 8 and perused the materials available on record.

5. It is the case of the petitioner that the respondents 2 to 8/workmen were only the contractual labours of the petitioner company hired through one Dolby Corporation and that the award under challenge has been passed without appreciating the materials adduced by the petitioner company more specifically Exhibits M2 to M7 and no sufficient material was placed by the workmen before the Labour Court to establish employer-employee relationship between the petitioner and the respondents 2 to 8/workmen.

6. Though the petitioner claims that the respondents 2 to 8/workmen were working in the petitioner company only on contract basis and their salary was paid by Dolby Corporation as they were under the actual employment of the said Corporation but the fact remains that the documents which have been marked by the petitioner only establishes relationship between the petitioner and Dolby Corporation and there is no material to show any relationship of respondents 2 to 8 and the Dolby Corporation.



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Such being the case, the relationship between the petitioner and the Dolby Corporation on the basis of the exhibits cannot be the basis to infer relationship between the Dolby Corporation and respondents 2 to 8 as averred by the petitioner. There is no material to show the contractual nature of employment of Respondents 2 to 8 much less with Dolby Corporation. Further, no person from Dolby Corporation has been examined by the petitioner to substantiate that Respondents 2 to 8 were under contractual employment of Dolby Corporation. In the absence of any acceptable material, the finding rendered by the Labour Court does not suffer the vice of any illegality and it deserves to be sustained. Hence, the award passed by the labour court needs no interference.

7. For the reasons aforesaid, this Writ Petition stands dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

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NHS

Index : Yes / No

Internet : Yes / No

Speaking Order/Non-Speaking Order



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M.DHANDAPANI, J.

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To

The Presiding Officer,
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