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W.P.No.5840 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2023

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.5840 of 2016

and

W.M.P.No.5183 of 2016

The Management of
Godrej & Boyce Manufacturing Company Ltd.,
Rep. by its Branch General Manager Mr.T.Sasikumar ... Petitioner

Vs.

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

2. S.Jeeva
3. T.Pinchalammal
4. P.Pappa Rao
5. G.Pullaiiah
6. D.Challan
7. R.Palani
8. T.Purshothaoman
9. C.Gangaiyaon
10. G.Srinivasan
11. D.Ranganathan
12. C.Ekkambaram

... Respondents

(Respondents 2 to 12 represented by General Secretary,
Socialist Labourer Union, No.7, Esani Murty Koil Street,
Chennai – 600 019.)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India
seeking for issuance of a Writ of Certiorari calling for the records connected



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with I.D.No.95 to 105 of 2003 and quash the Award dated 27.08.2015 passed by the 1st respondent i.e., The Presiding Officer, 3rd Additional Labour Court, Chennai.

For Petitioner : Mr.Sanjay Mohan

For Respondent : Mr.T.S.N.Prabhakaran for R2 to R12

ORDER

This writ petition has been filed to quash the Award passed in I.D.No.95 to 105 of 2003 dated 27.08.2015 passed by the 1st respondent.

2. It is the case of the petitioner that the petitioner company is engaged in manufacturing, marketing, warehousing and delivery of its products at Sidco Industrial Estate, Ambattur, Chennai, which has 230 numbers of permanent workers in its rolls to perform all the work in its establishment such as sales, service, finance and commercial. The respondents 2 to 12 raised industrial disputes before the conciliation officer alleging that the petitioner is their employer and they were working under the petitioner, through contractor and also that they were illegally terminated by the petitioner. Since the conciliation ended in failure, the private respondents approached the Labour Court u/s.2(A)(2) of the Industrial Disputes Act,



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1947 in I.D.Nos.95 to 105 of 2003 seeking to reinstate the private respondents along with monetary benefits, wherein 1st respondent vide Award dated 27.08.2015, directed the petitioner / management to pay a sum of Rs.1,00,000/- as compensation to the private respondents. Challenging the same, the petitioner has come up with this writ petition.

3. The learned counsel for the petitioner submits that there was no employer-employee relationship between the petitioner and the private respondents, in the absence of such proof being adduced before the Labour Court, the question of retrenchment and unfair labour practice adopted by the petitioner does not arise. He further submitted that though the private respondents worked intermittently from the year 1988 to 1989 in the petitioner management, they raised industrial dispute only in the year 2003 and without appreciating the said facts, the Labour Court passed the Award dated 27.08.2015 in favour of the private respondents, which is *per se* unsustainable.

4. He further submits that pursuant to the interim order passed by this Court, the petitioner management has deposited a sum of Rs.50,000/- to



each petitioner to the credit of I.D.Nos.95 to 105 of 2003.

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5. Per contra the learned counsel appearing for the respondents 2 to 12 submits that the petitioner was availing the services of the private respondents for its work in their company. In order to prove the existence of employer-employee relationship between the petitioner and the private respondents, one of the private respondents adduced ESI Identification Card before the Labour Court, and the same was marked as Ex.W2 and Bonus Slip issued by the petitioner management marked as Ex.W3. Upon appreciating all the oral and documentary evidences, the Labour Court has awarded compensation to the tune of Rs.1,00,000/- to be payable by the petitioner management, which cannot be interfered with.

6. Heard the learned counsel appearing on either side and perused the materials placed on record.

7. Admittedly, the industrial dispute was raised before the 1st respondent as against the alleged retrenchment of the private respondents, wherein the Labour Court vide award dated 27.08.2015, directed the



petitioner to pay a sum of Rs.1,00,000/- as compensation to each workmen, which is under challenge in the present writ petition. It is equally undisputed that one Venkatesan was examined as W.W.1 and Ex.W.1 to W.20 were marked on behalf of the workmen and S.Thirumaran was examined as M.W.1 and Ex.M.1 to M.8 were marked on behalf of the management. Though the Labour Court has rightly appreciated the oral and documentary evidences and passed the Award to the tune of Rs.1,00,000/- each to the workmen at the relevant point of time, however, considering the service rendered by the private respondents, awarding the very same compensation at this point of time would not be just and reasonable. Hence, this Court is inclined to modify the Award dated 27.08.2015 passed by the 1st respondent as hereunder:

(i) It appears that the petitioner has already deposited a sum of Rs.50,000/- to each workmen as ordered by this Court. Hence, the petitioner is directed to deposit the remaining amount to the tune Rs.75,000/- to each workmen to the credit of I.D.Nos.95 to 105 of 2003, Labour Court Kancheepuram III Additional Labour Court, Chennai within a period of six (6) weeks from the date of receipt of a copy of this order. Thereafter, the private respondents are directed to withdraw the said amount.



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

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Index : Yes/No

Speaking order / Non-speaking order

Neutral Citation Case : Yes/No

To

The Presiding Officer,
Third Additional Labour Court, Chennai.



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M.DHANDAPANI,J.

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