



W.P.No.20131 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.20131 of 2023

And

W.M.P.No.19479 of 2023

The Management
Janatha Tyre Retreading Shop

... Petitioner

Vs.

B.Baskaran

... Respondent

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records pertaining to the Award dated 17.04.2023 passed by the Learned Principal Labour Court at Vellore made in I.D.No.82 of 2021 and to quash the same.

For Petitioner : Mr.S.Sathish Rajan
For Respondents : Mr.S.T.Varadarajulu for R1

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorari to call for the records pertaining to the Award dated



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17.04.2023 passed by the learned Principal Labour Court at Vellore made in I.D.No.82 of 2021 and to quash the same.

2.The case of the petitioner is that the respondent raised industrial dispute in I.D.No.82 of 2021 before the Principal Labour Court at Vellore for reinstatement with backwages and continuity of service. Before the Labour Court the respondent alleged that he was working under the petitioner since 1988 and after the demise of the original owner Rajappan, the petitioner was taken over by his wife and handed over to the Manager Eswaran who had previous enmity with the respondent and hence, the respondent was orally terminated from service during October, 2020. The Labour Court passed Award dated 17.04.2023 directing the petitioner to reinstate the respondent with continuity of service, 50% backwages and other attendant benefits. Challenging the same, the petitioner has filed this writ petition.

3.The learned counsel appearing for the petitioner submitted that the respondent never worked under the petitioner and the petitioner is only a puncture shop. The petitioner used to hire



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respondent whenever need arises and accordingly he was paid wages.

The learned counsel further submitted that one Rajappan was the original owner of the petitioner and after his demise, the petitioner was taken over by his wife and handed over to the Manager Eswaran. The said Eswaran instigated the respondent to raise industrial dispute as against the petitioner.

4.The learned counsel appearing for the petitioner further submitted that the respondent never worked under the petitioner continuously for 240 days in a calender year and also did not prove the employer employee relationship before the Labour Court. When such being the position, the Labour Court without any evidence or material, passed the award in favour of the respondent, which is not sustainable and the same is liable to be set aside.

5.The learned counsel appearing for the respondent submitted that before the Labour Court, one Eswaran was examined on behalf of the Management and in his deposition, he admitted that the respondent was an employee of the petitioner. Hence, the award



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passed by the Principal Labour Court at Vellore dated 17.04.2023 in I.D.No.82 of 2021 does not warrant any interference.

6.Heard the arguments advanced on either side and perused the materials available on record.

7.The respondent raised industrial dispute in I.D.No.82 of 2021 before the Principal Labour Court at Vellore for reinstatement with backwages and continuity of service alleging that he was working under the petitioner since 1988 and after the demise of the original owner Rajappan, the petitioner was taken over by his wife and handed over to the Manager Eswaran and thereafter, he was orally terminated from service during October, 2020. The Labour Court passed award dated 17.04.2023 directing the petitioner to reinstate the respondent with continuity of service, 50% backwages and other attendant benefits.

8.Perusal of the impugned award reveals that neither the petitioner nor the respondent has marked any documents before the Labour Court except the copy of the conciliation failure report marked by the respondent. In the absence of any document and evidence,



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the Labour Court has arrived at a conclusion that there was employer employee relationship inbetween the petitioner and the respondent

and that the respondent has worked continuously for 240 days in a calender year. Hence the impugned award is perverse and arbitrary and the same is set aside.

9.The writ petition is allowed. The impugned award dated 17.04.2023 passed by the Principal Labour Court at Vellore in I.D.No.82 of 2021 is set aside. No costs. Consequently, connected miscellaneous petition is closed.

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Speaking Order/ Non Speaking Order
Index: Yes/ No
Internet: Yes/ No



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