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WP.Nos.7260 & 7261 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2023

CORAM :

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.7260 & 7261 of 2017

& W.M.P.Nos.7892 & 7893 of 2017

The Principal, District Institute
of Educational Training,
Kaliyampoondi, Kancheepuram
District.

...Petitioner in both WPs

Vs

1.Mrs.Alamelu

...R1 in W.P.No.7260 of 2017

2.A.Gunaseelan

...R1 in W.P.No.7261 of 2017

3.The Presiding Officer,
Second Additional Labour
Court, Chennai-104.

...R2 in both WPs

PRAYER : Petition filed under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorari to call for the records relating to the common award dated 05.8.2016 made respectively in I.D.Nos.316 and 317 of 2016 on the file of the Second Additional Labour Court, Chennai - the Labour Courtherein and quash the same.

For Petitioner in
both WPs

: Mr.S.Johh,
Addl. Government Pleader

For Respondent-1 in
both WPs

: Mr.V.Ajaykhose



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COMMON ORDER

These petitions are filed by the petitioner seeking to quash the common award dated 05.8.2016 made in I.D.Nos.316 and 317 of 2016 on the file of the second respondent.

2. For the sake of convenience, the petitioner herein will be referred to as “*Management*”. The respective 1st respondent will be referred to as “*Workmen*” and the 2nd respondent will be referred to as “*Labour Court*”.

3. The facts leading to filing of these writ petitions are as follows:

(i) The workmen were appointed as scavengers in the petitioner institute in 1999 by the Students Committee. At that time, they were not given any appointment order by the petitioner institute nor any attendance register was maintained. They were paid a sum of Rs.500/- per month only by the students, who were studying in the institute at the relevant point of time. As there were lapses in the services rendered by the respective first



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respondent, the students expressed their displeasure and their services were terminated with effect from 20.10.2004.

(ii) Aggrieved by the termination, the workmen approached the Labour Court seeking to reinstate them into service with full backwages. Ultimately, after contest, the impugned common award came to be passed by the Labour Court, in which, the petitioner was directed to reinstate the workmen with continuity of service, backwages and other benefits. Challenging the same, the petitioner is before this Court.

4. When the matters came up for admission on 24.3.2017, this Court granted an order of interim stay in WMP.Nos.7892 & 7893 of 2017.

5. Learned counsel for the petitioner management would submit that the workmen were appointed by the students committee and that they were not issued with appointment orders. Further, the workmen have not placed any material document before the Labour Court to show that there was a direct employer-employee relationship between the petitioner management and the workmen. In the absence of any acceptable material to



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prove the relationship between the management and the workmen, the claim entertained by the Labour Court directing the petitioner to reinstate the workmen into service cannot be sustained. Hence, the findings rendered by the Labour Court is perverse and is liable to be set aside.

6. Per Contra, learned counsel for the workmen would submit that the ID cards as well as the payslips were produced before the Labour Court which were issued by the management to the workmen in order to prove the existence of employer-employee relationship between the management and the workman. The said materials have been properly appreciated by the Labour Court while passing the impugned award and therefore, the claim of the management with regard to non-existence of employer-employee relationship between the management and the workmen is not sustainable. Hence, there is no infirmity in the impugned award passed by the Labour Court. Accordingly, he prays for dismissal of these Writ Petitions.

7. Heard the learned Additional Government Pleader appearing for the petitioner and the learned counsel appearing for the workmen in both the



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writ petitions.
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8. It is the case of the petitioner management that the workmen who were engaged as scavengers were appointed by the students committee and that the employer-employee relationship never existed between the management and the workmen. However, it is evident from a perusal of the impugned award that in order to establish their relationship with the management, the workmen have placed their ID cards, salary slips and other materials before the Labour Court which were issued to them by the management. However, no evidence has been adduced by the management so as to substantiate their claim with regard to appointment of the workmen by the students committee. In the absence of any acceptable material placed by the management to substantiate their claim, while the workmen have placed sufficient proof to establish their relationship with the management, the finding rendered by the Labour Court does not suffer the vice of any illegality and it deserves to be sustained.



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9. Learned counsel for the petitioner management further submitted that during the pendency of these Writ Petitions, the 1st respondent in W.P.No.7260 of 2017 has attained superannuation.

10. In view of the superannuation attained by the 1st respondent in W.P.No.7260 of 2017, the petitioner management is directed to settle the entire benefits to her in terms of the award passed by the Labour Court in I.D.No.316 of 2016 within a period of eight weeks from the date of receipt of a copy of this order. Insofar as the other workman in W.P.No.7261 of 2017, the management is directed to implement the Award of the Labour Court within the said period.

11. The Writ Petitions are dismissed with the aforesaid directions. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

21.07.2023

Index : Yes (or) No
Neutral Citation : Yes (or) No
Speaking Order : Yes (or) No
NHS



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To
The Presiding Officer,
Second Additional Labour
Court, Chennai-104.



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