



W.P.No.9316 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.9316 of 2017

and W.M.P.No.10295 of 2017

The Management,
Tamil Nadu State Transport Corporation,
Coimbatore Limited,
Erode-I.

.. Petitioner

Vs.

1. K.Shanmugam

2.Presiding Officer,
Labour Court,
Salem.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue appropriate Writs, Order or Direction and in particular issue a Writ of Certiorari after calling for the records relating to the order dated 11.04.2016 passed in I.D.No.123 of 2012 on the file of the Labour Court, Salem and quash the same as being illegal, arbitrary and unconstitutional.



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For petitioner : M/s.K.J.Sivakumar
For Respondents : Ms.N.S.Tanvi for R1.

ORDER

Aggrieved by the impugned award of the Labour Court in I.D.No.123 of 2012, the petitioner is before this Court.

2. It is the case of the petitioner that the 1st respondent was engaged as sweeper in the petitioner corporation through employment exchange and he was orally dismissed from service. Challenging the said dismissal, the 1st respondent raised an Industrial Dispute before the 2nd respondent/Labour Court in I.D.No.123 of 2012 wherein, the labour court has ordered for reinstatement and continuity of service with 75% of the back wages and other benefits. Challenging the same, the present Writ Petition has been filed by the petitioner corporation.

3. Learned counsel for the petitioner submitted that the 1st respondent has no right to raise an industrial dispute as she was employed in the petitioner corporation only on temporary basis for which no appointment



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order was issued and she was also not under continuous employment.

However, without considering the aforesaid facts, the labour court has passed an award in favour of the 1st respondent which is liable to be set aside.

4. Per Contra, learned counsel for the 1st respondent submitted that though the petitioner claims that the 1st respondent was only a temporary employee of the petitioner corporation, however, she was paid her monthly salary only by the petitioner corporation since the date of entering into the service and without following the procedures contemplated under Section 25(f) of the Industrial Disputes Act, she was orally dismissed from services on 04.10.2008. The documents relating to payment of salary were marked as exhibits WW-1 to WW-22 before the Labour Court which alone is sufficient to show that there was an employer-employee relationship between the petitioner and the 1st respondent. Hence, the order passed by the labour court is perfectly in order and the same cannot be interfered with. Accordingly, he prays for dismissal of this Writ Petition.

5. This Court heard the learned counsel appearing on either side



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and perused the materials available on record.

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6. Admittedly, the 1st respondent claims that he was working in the petitioner corporation as sweeper for more than 20 years and thereafter he was orally terminated from service. Though, it is the claim of the petitioner that 1st respondent was only a temporary employee of the petitioner corporation and that there was no employer-employee relationship between the petitioner and the 1st respondent, however, it is evident from the materials available on record that monthly salaries have been paid to the 1st respondent only by the petitioner corporation and relevant documents to that extent have been placed before the Labour Court.

7. A perusal of the impugned Award reveals that the aforesaid documents have been elaborately discussed by the Labour Court while passing the award in I.D.No.123 of 2012 dated 11.04.2016 in favour of the 1st respondent/workman. However, no materials have been placed by the petitioner management to show cause that the employer-employee relationship never existed between the management and the workman. In the absence of any material placed by the petitioner management, this Court



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cannot interfere with the impugned Award. Hence, this Writ Petition deserves to be dismissed.

8. For the reasons aforesaid, this Writ Petition stands dismissed.

There shall be no order as to costs. Consequently, the connected Miscellaneous petition stands Closed.

21.07.2023

Index : Yes / No
Speaking Order/Non-Speaking Order
Neutral Citation:Yes/No

NHS

To

Presiding Officer,
Labour Court,
Salem.

M.DHANDAPANI, J.



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