



W.P. No.13909 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2023

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P. No.13909 of 2017

and

W.M.P. No.15095 of 2017

The Management
T.P.S.Plantation
Green Garden 'B'
represented by Mr.S.Selvaraj
K.Puthur Post, Yercaud Taluk
Salem District.

... Petitioner

-VS-

1.The Labour Judge
Labour Court
District Court Campus
Salem-636 007.

2.The Secretary
Neelamalai Thotta Thozhilalar Sangam
Thotta Thozhilalar Illam
Main Road, Yercaud Taluk
Salem District.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the records relating to the impugned order dated 10.02.2016 in I.D.No.177 of 2009 passed by the first respondent /Labour Court, Salem herein and to quash the same.



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For Petitioner : Mr.V.Sekar
For Respondents : Mr.K.M.Ramesh, Senior Counsel
For Mr.V.Sivaraman (R2)

ORDER

The petition has been filed seeking to quash the impugned order dated 10.02.2016 in I.D.No.177 of 2009 passed by the first respondent /Labour Court, Salem herein.

2. It is the case of the petitioner that the second respondent filed a petition under Section 2(K) of ID Act before the labour Welfare Department on behalf of the workmen viz., Santha, Lalitha, Venkatachalam and Chinnagounder raising an Industrial Dispute alleging that the above workmen were denied salary by the Management for the period from 20.03.2007 to 11.04.2007. The Labour Welfare Department, in turn, referred the matter under the Government order in (D) No.616 dated 18.11.2009 to the first respondent to adjudicate the dispute. The first respondent has taken the petition on file in ID No.177 of 2009 and the same was allowed the ID by directing the petitioner Management to pay the salary to the workmen for the period of their absent from 20.03.2007 to 11.04.2007. Challenging the same, the present writ petition has been filed.



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3. The learned counsel for the petitioner submitted that the first respondent has failed to consider that the absence of the workers during 20.03.2007 to 11.04.2007 is voluntary and the petitioner had written a letter dated 21.03.2007 to the workers questioning their absence. Without considering the entire facts, the Labour Court has passed an award in favour of the workmen, which is unsustainable one.

4. The learned counsel for the first respondent submitted that there was a 12(3) settlement between the petitioner and the workmen on 09.01.2004 and the petitioner has undertaken to absorb the workmen for the duty and the said fact has not refused by the Management before the Labour Court. The Labour Court has rightly assessed the issue and passed orders in favour of the workmen which does not warrant any interference.

5. Heard the learned counsel for the petitioner as well as the second respondent and perused the materials available on record.

6. The facts of the case are not in dispute. Admittedly, the second respondent's members were employees of the petitioner company. For



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settlement of wages, which was allegedly not extended to the members of the second respondent, aggrieved to be settled in favour of the workmen, they raised 2K dispute before the Labour Court. The Labour Court passed the present impugned award in favour of the workmen. The Labour Court has awarded salary for 22 days and continuity of service and also full back wages.

7. On perusal of the original records, it is seen that the workers are not the permanent employees of the Management and they were not working more than 240 days as per law. The workers normally would be given employment only when there is any availability of work in the estate. Further, the alleged 12(3) settlement claimed by the Union is nothing connected with the present case. Therefore this Court feels that the workers are not entitled to get continuity of service and full back wages.

8. Considering the facts and circumstances of the case and in order to quietus the issue, this Court sets aside the award passed by the first respondent and directs the petitioner Management to pay a sum of Rs.3,500/- as full quit to the respective workmen within a period of four weeks from the date of receipt of a copy of this order.



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WEB COPY 9. With the above terms, the writ petition is partly allowed. No costs.

Consequently, connected miscellaneous petition is also closed.

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Index: Yes/No

NCS : Yes/No

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M.DHANDAPANI, J.

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