



WP.No.28675 of 2018

In the High Court of Judicature at Madras

Dated : 24.8.2023

Coram :

The Honourable Mr.Justice M.DHANDAPANI

Writ Petition No.28675 of 2018
& WMP.Nos.33473 of 2018 & 18293 & 18294 of 2020

M/s.Yeses International Ltd.,
rep.by its Managing Director
S.Padma

...Petitioner

Vs

1.Mr.S.Rajamanickam

2.M/s.Yeses International Ltd.,
rep.by its Management,
Chennai-28.

3.M/s.Kavitha Petrochem Pvt.
Ltd., rep.by its Management,
Chennai-28.

4.M/s.Kalyan Petro Products
Pvt. Ltd., rep.by its
Management, Chennai-28.

5.M/s.Karthick Petroleum Pvt.
Ltd., rep.by its Management,
Chennai-10.

...Respondents



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Prayer: This petition is filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records relating to the award passed in I.D.No.33 of 2014 on the file of the First Additional Labour Court, Chennai on 26.7.2018 and quash the same as illegal, arbitrary and against the law.

For Petitioner : Mr.D.Veerasekaran
For Respondent-1 : Mr.Ravindra Ram
Respondents 2 to 5 : Not ready in notice

ORDER

This is a petition filed by the petitioner seeking to quash the award dated 26.7.2018 in I.D.No.33 of 2014 on the file of the First Additional Labour Court, Chennai.

2. The facts leading to filing of this case are as follows :

(i) The first respondent was working as a driver in M/s.Yeses Group.

He was dismissed from service on 31.3.2010. Therefore, at the instance of the first respondent, conciliation proceedings were initiated before the Commissioner, Labour Department, Kuralagam, Chennai against the father of the petitioner - the then Chairman and Managing Director of M/s.Yeses Group seeking a sum of Rs.12,50,000/- towards provident fund, employees'



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state insurance, salary dues and compensation on the ground that the then Chairman and Managing Director of M/s.Yeses Group played fraud on M/s.Lakshmi Vilas Bank in both Mylapore and Purasaiwakkam branches and cheated a sum of Rs.10,80,000/- and that he also evaded to pay tax to the tune of Rs.400 crores to the Commercial Taxes Department.

(ii) The father of the petitioner filed a reply to the said conciliation proceedings denying the entire allegations. The first respondent also filed a rejoinder. However, the conciliation ended in a failure report submitted by the Labour Officer concerned on 21.12.2010. Though the first respondent made a criminal complaint against the father of the petitioner before the Commissioner of Police, Chennai, no action was taken.

(iii) Thereafter, the first respondent filed an application under Section 2A(2) of the Industrial Disputes Act, 1947 on 23.1.2014 before the First Additional Labour Court, Chennai to direct the petitioner to pay full back wages, in which, the petitioner filed a counter. The father of the petitioner died on 22.1.2011. Further, at the instance of the first respondent, respondents 2 to 5 were impleaded by order dated 17.8.2017 in I.A.No.569 of 2016. By the impugned award, the First Additional Labour Court directed



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that the first respondent would be entitled to get back wages and all other attendant benefits from the date of termination. Challenging the same, the petitioner is before this Court.

3. At the time of admission, on 08.11.2018 in WMP.No.33473 of 2018, this Court granted an order of interim stay, as prayed, for a period of six weeks. Thereafter, the first respondent filed two miscellaneous petitions in WMP.Nos.18293 and 18294 of 2020 seeking (i) to vacate the stay granted on 08.11.2018 in WMP.No.33473 of 2018; and (ii) to fix an early date for hearing the writ petition.

4. The learned counsel for the petitioner submits that though the respondent / workman claims that he is employed in the petitioner management, however, no documents was produced before the Labour Court in order to prove the employer – employee relationship. Further, the first respondent miserably failed to establish that he was in continuous employment for a period of 240 days in a calendar year either with the petitioner or with her father. In the absence of any such proof, based on the



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presumption, the Labour Court mechanically passed the impugned award which is perverse and accordingly, he prayed to allow this writ petition.

5. He further submitted that though the first respondent as per the claim petitioner was dismissed from services of the petitioner management during the year 2009, however he raised the industrial dispute u/s.2(A) 2 of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act') only in the year 2014 which is beyond the period of five years and the same is barred by limitation u/s.2(A) 3 of the Act which could not have been entertained by the Labour Court. When the application made by the worker itself is not maintainable, the award passed by the Labour Court based on the dispute raised in the said application, directing the petitioner management to pay the compensation to the worker is wholly misconceived, arbitrary and illegal and the same deserves to be set aside.

6. The learned counsel for the first respondent submits that admittedly as per the claim petition, the first respondent was orally terminated during the year 2009 and thereby conciliation proceedings was initiated in the year



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2010, pursuant to the failure of the conciliation proceedings, the principal employer of the petitioner management namely Shanmugam died on 22.01.2011, whileso, he filed the claim petitioner u/s.2(A)-2 of the Act before the Labour Court in the year 2014, which is well within time. Hence the award passed by the Labour Court needs no interference of this Court, and the writ petition is liable to be dismissed.

7. Heard the learned counsel for the petitioner and the learned counsel appearing for the first respondent.

8. As per Section 2A of the Act, any individual can raise a dispute challenging his discharge, dismissal, retrenchment or termination. However, with effect from 15.09.2010, sub-sections (2) & (3) were inserted under Section 2-A by way of Amending Act 24 of 2010. In view of the said amendment, the workmen should raise a dispute within a period of 3 years from the date of dismissal or termination. In the present case, the workman claims that he was terminated from service in the year 2009, however, he has raised a dispute only in the year 2014, which is beyond the period of



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limitation of three years prescribed under the Act. The Labour Court, without ascertaining the maintainability of the application made by the workmen, has mechanically passed the impugned award granting compensation to the workman which cannot be sustained and the same deserves to be set-aside. Accordingly, the impugned award in I.D.No.33 of 2014 dated 26.07.2018 on the file of the First Additional Labour Court, Chennai is set aside.

9. With the above observation this writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

24.8.2023

RAP

Index : Yes (or) No

Neutral Citation : Yes (or) No

Speaking Order : Yes (or) No

To

The Presiding Officer, First
Additional Labour Court,
Chennai.



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