



W.P.No. 33828 of 2015

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

Dated: 28.10.2024

**Coram:**

**THE HONOURABLE MS.JUSTICE R.N.MANJULA**

**W.P.No. 33828 of 2015 &**

**W.M.P.No.6117 of 2022**

M/s EDAC Engineering Limited  
No.88, Mount Road,  
Guindy, Chennai – 600 032  
rep. By its Legal Officer

...Petitioner

Vs.

1. The Presiding Officer,  
Central Government Industrial Tribunal Cum  
Labour Court, Chennai

2. A.Pari

3. The Chief Manager / HOHR  
NLC Limited  
Thermal Power Station -II Expansion,  
Neyveli – 607 802

4. The Principal Contractor,  
BHEL Project Office  
c/o NLC Limited  
Thermal Power Station-II Expansion  
Neyveli 2

...Respondents

**Prayer:** Writ Petition filed under Article 226 of Constitution of India for issuance of Writ of Certiorari calling for the records of the 1<sup>st</sup> respondent in I.D.No.69 of 2014 and quash the award dated 25.06.2015 and pass orders



W.P.No. 33828 of 2015

For Petitioner : Mr. Anand Gopalan for  
M/s Agam Legal advocates

For Respondents : Mr.Krishnasamy for R2  
Mr.N.Nithianandam for R3  
No appearance for R4

### **ORDER**

This Writ Petition has been filed challenging the award of the Central Government Industrial Tribunal-cum-Labour Court, Chennai dated 25.06.2015 made in I.D.No.69 of 2014 wherein the award has been passed directing the petitioner to reinstate the 2<sup>nd</sup> respondent in service along with 50% backwages from 06.09.2011 to the date of publication of the award along with continuity of service. Challenging the same, the petitioner has come up with this petition.

2. The primary contention of the learned counsel for the petitioner is that the 2<sup>nd</sup> respondent is not a direct employee under the petitioner and he was engaged by a contractor with whom the petitioner has got an agreement. However, the labour court has proceeded to pass an award for reinstatement in view of the fact that the petitioner had paid compensation in workmen compensation proceedings for the injuries sustained by the 2<sup>nd</sup> respondent during the course of his employment. It is further observed that in view of the



W.P.No. 33828 of 2015

above records, the burden would be lying upon the shoulders of the petitioner to prove that the 2<sup>nd</sup> respondent is not his direct employee.

3. The learned counsel for the petitioner submitted that the labour court has omitted to take note of the fact that the Management has produced all the documents including the attendance register and wage register where the 2<sup>nd</sup> respondent has signed in order to substantiate the fact that he has been engaged by the contractor of the petitioner, hence there is no employee and employer relationship was subsisting between the petitioner and the 2<sup>nd</sup> respondent; So the submission of the petitioner is that the petitioner being principal employer he was liable to pay the compensation as per the statutory mandates cannot be put against him by the labour court to hold that the 2<sup>nd</sup> respondent is the direct employee of the petitioner.

4. On a perusal of the order of the labour court, it is seen that the labour court while appreciating the above documents has observed that though the petitioner had chosen to mark those documents in order to enable the 2<sup>nd</sup> respondent to cross examine, the fact remains that the 2<sup>nd</sup> respondent did not raise any objection while marking those documents and more specifically he did not deny the signature of the above documents.



W.P.No. 33828 of 2015

5. Leaving aside the merits of the matter, now it is learnt from the learned counsel for the 2<sup>nd</sup> respondent that the 2<sup>nd</sup> respondent is willing to go for an amicable settlement provided the petitioner agrees to pay the 50% of the backwages which he has already deposited to the credit of this case before Central Government Industrial Tribunal, Chennai. The learned counsel for the petitioner has stated no objection for the 2<sup>nd</sup> respondent to take above deposit along with accrued interest as full and final settlement.

6. The 2<sup>nd</sup> respondent also has got no disagreement to the fact that above amount has been deposited in the court, in view of the earlier interim orders passed by this Court. In view of such a development, I feel a quietus can be given by allowing the 2<sup>nd</sup> respondent to file a cheque application before Central Government Industrial Tribunal-cum-Labour Court, Chennai to permit him to take the amount deposited in pursuant to the order passed by this Court on 27.10.2015.

7. In view of the above discussion, the Writ Petition is disposed as settled on the terms of allowing the 2<sup>nd</sup> respondent to avail the deposit made by the petitioner in pursuant to the orders of this Court made in 27.10.2015 along with interest. The 2<sup>nd</sup> respondent is liberty to file a cheque application and in the event of filing such cheque application, the Central Government Industrial Tribunal-



W.P.No. 33828 of 2015

cum-Labour Court, Chennai shall pass orders for allowing the 2<sup>nd</sup> respondent to avail the deposit with interest without awaiting for any further orders from this Court. Consequently, connected miscellaneous petition is closed. No costs.

**28.10.2024**

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

To

1. The Presiding Officer,  
Central Government Industrial Tribunal Cum  
Labour Court, Chennai
2. A.Pari
3. The Chief Manager / HOHR  
NLC Limited  
Thermal Power Station -II Expansion,  
Neyveli – 607 802
4. The Principal Contractor,  
BHEL Project Office  
c/o NLC Limited  
Thermal Power Station-II Expansion  
Neyveli 2



WEB COPY



W.P.No. 33828 of 2015

**R.N.MANJULA, J.**

ssd

**W.P.No.33828 of 2015**

**28.10.2024**