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W.P.No.7814 of 2024
and W.M.P.No.8755 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.09.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.7814 of 2024
and W.M.P.No.8755 of 2024

The Management
Bright Gas Services,
No.1996/B, Trichy Road,
Krishna Colony,
Central Studio-(Opp),
Singanallur,
Coimbatore - 641 005.

...

Petitioner

versus

M.Saravanan

...

Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records pertaining to I.D.No.76 of 2020 on the file of the Principal Labour Court, Coimbatore and quash the award dated 21.06.2023.

For Petitioner : Mr.K.Rajendra Prasad

For Respondent : Mr.A.E.Ravichandran



ORDER

WEB COPY The Writ Petition has been filed challenging the award of the learned Presiding Officer, Principal Labour Court, Coimbatore, made in I.D.No.76 of 2020 dated 21.06.2023.

2. Mr.K.Rajendra Prasad, learned counsel for the petitioner and Mr.A.E.Ravichandran, learned counsel for the respondent and perused the materials available on record.

3. The respondent has raised an industrial dispute by alleging that he has been illegally terminated. In appreciating the materials available on record, the Labour Court had come to the conclusion that the termination was illegal and granted the relief of lumpsum compensation of Rs.2,00,000/- with interest.

4. Mr.K.Rajendra Prasad, learned counsel for the petitioner submitted that the Labour Court has not properly appreciated the materials before arriving at the conclusion that the respondent is not the workman of the petitioner. He further submitted that the difference in the wage slips



produced by the petitioner would be construed as the wages payable to him for each month in accordance with the number of cylinders delivered by him. He further submitted that the ESI Card given to the respondent is only temporary in nature and hence, that should not have been taken into consideration. It is further submitted that in view of the repeated complaints received by the petitioner against the respondent, that he is demanding illegal gratification from the customers, he stopped his services, but the Labour Court has omitted to consider the above aspects.

5. Mr.A.E.Ravichandran, learned counsel for the respondent submitted that the Labour Court has rightly appreciated the evidence on record, especially the wage slips, for arriving at the conclusion that the respondent is the workman of the petitioner and that he has been terminated illegally.

6. The matter lies in a very narrow campus and it revolves around the point of whether the Labour Court is right in arriving at the conclusion that the respondent is the employee of the petitioner in his capacity as delivery boy. The fact that the petitioner is rendering the services of the



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delivery boy was not denied, but the petitioner has made a claim that he had engaged the services of the respondent only on a per-cylinder charge basis and not on a salary basis. Curiously, the petitioner did not agitate the above point before the Labour Court and this stand has been first taken up before this Court. Fortunately, the petitioner did not dispute the genuineness of the wage slips (Ex.W.2) and hence, I do not find any short sighted reasons in appreciating the above materials for arriving at the conclusion that the respondent is very much an employee of the petitioner.

7. Coming to the next point of illegal termination orally, it is alleged by the petitioner that the respondent was in the habit of getting illegal gratification from the customers during the festival occasions and hence, his services were stopped. Once it is established before the Court that the petitioner is the employer of the respondent in the event of any misconduct noticed against the respondent, there is an obligation on the petitioner to initiate appropriate disciplinary proceedings before sending him out on dismissal.



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8. The petitioner's witness, M.W.1 himself has admitted in his evidence that the respondent has been orally terminated and that is sufficient to prove the fact that the respondent has been illegally terminated without notice and without following the due procedure. Hence, the Labour Court has rightly appreciated the materials and arrived at a conclusion by recording a finding that the respondent is the workman under the petitioner's management and he has been illegally terminated.

9. For the reasons best known to the learned Presiding Officer, it is felt that lumpsum compensation will meet the ends of justice instead of reinstatement and hence, ordered lumpsum compensation. In fact, the respondent did not have any grievance and he did not file any writ petition challenging the above relief. Hence, there cannot be any difficulty for the petitioner to comply the order of the Labour Court.

10. In the result, the Writ Petition is **dismissed** and the award of the learned Presiding Officer, Principal Labour Court, Coimbatore, in I.D.No.76 of 2020 dated 21.06.2023 is confirmed and the time for payment



is extended for a period of three weeks from the date of receipt of a copy of

this order. No costs. Consequently, connected Miscellaneous Petition is closed.

11.09.2024

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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To

The Presiding Officer,
Principal Labour Court,
Coimbatore.



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R.N.MANJULA, J.

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