



W.P.No.17680 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	07.03.2024
Pronounced on	12.03.2024
	4

C O R A M

The Hon'ble Dr.Justice D.NAGARJUN

Writ Petition No.17680 of 2014
and
M.P.No.1 of 2014

The Management of Saketh India Ltd.,
SIPCOT Industrial Estate,
Hosur, 635 126,
Krishnagiri District
Rep by its Managing Director R.I.Sharma

...

Petitioner

Vs

1. The Presiding Officer
Labour Court, Salem.

2. R.B.S.Mani (Deceased)

3. Annakodi

4. B.Rajendran

5.B.Yogaraj

6.B.Kannan

...

Respondents



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Prayer: This Writ Petition has been filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorari Mandamus calling for the record of the 1st respondent in I.D.No.122 of 2009 and quash the award dated 21.10.2013.

For petitioner	...	Mr.S.Bazeer Ahamed
For respondents	...	Mr.P.P.Shanmugasundaram

O R D E R

Aggrieved by the orders passed in I.D.No.122 of 2009 dated 21.10.2013, the petitioner Sakith India Pvt. Ltd., has filed this Writ of certiorari seeking quashment of the impugned order. During the pendency of the petitioner, second respondent workmen died. In his place, his legal representatives were brought on record as respondent No.3 to 6 vide order dated 27.11.2027 in W.M.P.No.20346 of 2022.

2. Petitioner company involved in extraction of granite stone from a mine situated at Sudhanur, Dharmapuri District. Second respondent joined in the petitioner company as a cleark, he was promoted from time to time and finally worked as Junior Officer. His duties and responsibilities were purely



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administrative and managerial side and was coordinating with the customers and that responsibility was to ensure the prompt delivery of the granite stone to the customers. He used to represent the petitioner company before the Central and State Government in respect of license, renewal of license etc.

3. The petitioner was having a factory at Hosur SIPCOT Industrial Estate, wherein granite stones were being cut into sizes basing on requirement of the customers. On account of industrial unrest which continued during the year 2005 the operation of the said factory was halted as there was no work, thereby, the second respondent was asked to look for employment elsewhere and he stopped to reporting the work with effect from 17.01.2005.

4. On 09.08.2007, second respondent got issued legal notice to the petitioner, stating that he was working from 1978 until 28.01.2005, and subsequently not provided the work in violation of labour laws. He has raised Industrial Dispute in I.D.No.122 of 2009 alleging termination of employment on 25.04.2005. The petitioner has contended that the respondent No.1/Labour Court cannot entertain the labour dispute as Labour Court was constituted by the Government of Tamil Nadu and that the second respondent is not a workmen under Section 2(s) of the Industrial Dispute Act. After fulfilled



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enquiry I.D.No.122 of 2009 award was passed allowing the I.D. Aggrieved by the same, present Writ Petition is filed.

5. Heard both sides and perused the material placed on record.

6. Learned counsel for the petitioner has submitted that first respondent/Labour Court has no subject matter jurisdiction to entertain the Industrial dispute as the petitioner company is doing mining under the license of the Central Government, thereby, Labour Court constituted by the Central Government is only empowered to entertain the dispute the first respondent Labour Court which was constituted by the State Government cannot resolve the Industrial Dispute.

7. The learned counsel for the respondent Nos.2 to 6 has submitted that the respondent No.1/Labour Court has got the subject matter jurisdiction as mining lease has been granted by the State Government.

8. Admittedly, the State Government has issued mining lease to the petitioner on 13.06.2002 in favour of the petitioner company, however at the same time, the license for the mining was granted by the Central Government.



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In the petitioner factory boulders were being cut into different sizes basing on the requirement of the customers. Once the second respondent had been working in the factory and not in the mine, it cannot be said that the dispute raised by the second respondent against the petitioner will have to be dealt by the Labour Court constituted by the central government. The first respondent/Labour Court has rightly appreciated these aspects and came to conclusion that first respondent/ Labour Court has got subject matter jurisdiction to deal with the issue involved in the dispute.

10. The other aspect which was strenuously raised by the petitioner is that second respondent is that the second respondent is not a workmen as defined under the Industrial Dispute Act, 1947. Section 2(s) of the Industrial Dispute Act runs as under:

“2(s) “workman” means any person (including an apprentice employed in any industry) to do any manual, unskilled, skilled technical, operational, clerical or supervisory work for hire and reward, whether the terms of employment be express or implied, and for the purposes of any proceedings under this Act in relation to an industrial dispute, includes any such person who has been dismissed,



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discharged or retrenched in connection with, or as a consequence of that dispute, or whose dismissal, discharge or retrenchment has led to that dispute. But does not include any such person. Personnel of Army, Navy and Air force, Police services who is employed mainly in a managerial or administrative capacity”

11. On perusal of the definition of the Section 2(S) of the Industrial Dispute Act it is clear that a person who is employed mainly in managerial and administrative capacity and a person who draws wages exceeding Rs.10,000/- are excluded from the definition of workmen.

12. It is the submission of the learned counsel for the petitioner that second respondent was working in the administrative and managerial capacity and was representing the petitioner company before the Central Government in respect of the grant and renewal of license and he was entrusted with the responsibility of prompt delivery of granite stones to the customers etc., as Junior Officer. Therefore, according to the petitioner since, the second respondent was working as Junior Officer in the Administrative and Supervisory capacity, he will not come under the definition of workmen.



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13. The first respondent/ Labour Court in the impugned order has held that basing on the nomenclature and basing on the designation of the second respondent it is not possible to conclude that the second respondent is not a worker. The first respondent/ Labour Court basing on the reply notice wherein it was mentioned that the second respondent was initially working as a Clerk and was working as Junior Officer duties like getting permission from the Mines Department for transporting the minerals etc., held that he is a workman. Learned counsel appearing for the second respondent submits that the conclusion of the first respondent/Labour Court that second respondent workmen is proper.

14. As per Section 2(s) of the Industrial Dispute Act, if a person is working in a supervisory capacity, if he/she draws wages exceeding Rs.10,000/- per month, he/she will be excluded from the definition of the workmen. In the case on hand, even according to the certificate filed by the petitioner, the second respondent has been drawing an amount of Rs.9708/- per month in all, of which net amount payable Rs.8620/-. Further on careful perusal of the duties and responsibilities as submitted by the learned counsel for the petitioner, it is clear that the petitioner was liasioning between the customers and the factory. He was



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not working in the supervisory capacity as none of them was working under him to receive instruction from him. He was also working as liaisoning between the Government and the factory. Even according to the petitioner, the second respondent was working in Saketh India limited and on account of not having the work in the said factory due to unrest of the labour, the petitioner not provided employment to the second respondent. Considering the above, the duties and responsibilities of the second respondent, it cannot be said that the second respondent is not a workmen as per the definition of the Section 2(S) of the Industrial Dispute Act.

15. In order to interfere with the orders of the Labour Court, the petitioner is expected to make out a case that the impugned orders was passed against the evidence available before the Labour Court and it totally pervers. On going through the award and also the materials placed before this Court, this Court is of the opinion that the Trial Court has passed reasoned order and thereby the said order is not perverse and thereby cannot be interfered with.

16. Accordingly, this Writ Petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs.



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Index : Yes / No

Speaking/Non-speaking Order

Neutral Citations: Yes/No

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To

1. The Presiding Officer
Labour Court, Salem.

Dr.D.NAGARJUN, J.

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Pre-delivery order made in

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12/3/2024