



WEB COPY



W.P.No.25742 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.09.2024

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P.No.25742 of 2024

and

W.M.P.Nos.28118 of 2024

The Managing Director,
M/s.Larsen and Toubro Private Limited,
ECC Division Mailam Road,
Sedarapet,
Puducherry.

... Petitioner

Vs.

T.Ramadassan,
Mariamman Kovil Street,
Kottakarai, Bharathipuram,
Irumbai, Aroville Post,
Vanur Taluk,
Villupuram District.

... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari to call for the records relating to the award passed in I.D.(L) No.11 of 2018 dated 31.10.2023 by the Industrial Tribunal cum Labour Court at Puducherry and quash the same.

For Petitioner : Mr.A.Tamilvanan



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for Mr.M.Vaikunth

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ORDER

The writ petition has been filed challenging the award of the Presiding Officer of the Industrial Tribunal cum Labour Court, Puducherry dated 31.10.2023 made in I.D.(L) No.11 of 2018.

2. On an Industrial Dispute raised by the respondent workman in the above dispute, the learned Presiding Officer of the Labour Court has passed an award directing the Management to reinstate the respondent into service with effect from 28.10.2016 with full back wages and all other attendant benefits.

3. Mr.A.Tamilvanan, the learned counsel for the petitioner, submitted that the Labour Court has not properly appreciated the evidence on record and especially the admission given by the workman himself while he was examined as P.W.1.

4. Attention was drawn to the observation made in the order that during the examination of P.W.1 he has stated that he was not appointed directly by the company and no appointment order was issued to him. Much thrust was made with regard to the wage register which is marked as Ex.R1



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where the name of the Contractor has been written and hence it is claimed that the Labour Court ought to have presumed that the workman is not the direct appointee of the company but he was engaged by the Contractor and hence he is only a Contract Labourer. However, the learned Presiding Officer has observed that the witness on the side of Management – R.W.1, has admitted that the company has not produced any document relating to the contract entered between the respondent company and the Contractor by name A.Selvam whose name has been written in the wage register. It is further observed that A.Selvam has not produced any license to show that he is a licensed contractor. Even if it is presumed that A.Selvam is a licensed contractor, unless any document relating to the contract is produced to establish that there is an agreement between the said Contractor and the company, it is difficult to expect the Court to record the finding that the respondent is only a Contractual Labour and not the workman of the company.

5. It is further submitted by the learned counsel for the petitioner that in Ex.P3 – Merit Certificate, produced by the workman and relied on by the learned Labour Judge, the workman has been described as a casual Labour but the learned Labour Judge has overlooked the same. The Labour Court



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did not stop with the appreciation made with regard to Ex.P3 but it also made a holistic appreciation and it is observed that the petitioner has deducted PF subscription for the workman and that has also been appreciated for arriving at the conclusion that the respondent is the workman of the petitioner's company.

6. It is submitted that even if the workman happens to be the contractual labour as per the communication issued by the Labour Department to the petitioner's company, it has been stated that the Principal Employer should provide social security to the contractual labourers and that is the reason why PF contribution has been made by the company.

7. Admittedly, no document pertaining to contract is produced before the Court to establish that the respondent is the worker engaged by one Contractor by name A.Selvam and that there is a labour contract between the petitioner's company and the contractor. Without establishing the said fact the petitioner cannot find fault with the appreciation of the Labour Court and hence, I feel no reason to entertain this writ petition and the award of the Labour Court does not need any interference.



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8. In the result, the Writ Petition is dismissed. No costs. Connected

miscellaneous petition is closed.

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Index : Yes/No

Neutral citation : Yes/No

Speaking Order/Non-Speaking Order

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R.N.MANJULA, J.

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To:

1. The Industrial Tribunal cum Labour Court,
Puducherry.

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