



W.P.No.35382 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 01.07.2024

PRONOUNCED ON : 03.07.2024

CORAM:

THE HONOURABLE Dr. JUSTICE D. NAGARJUN

W.P.No.35382 of 2023

S.Anandan

...Petitioner

-Vs-

The Management of
ADP India Private Limited,
7th floor, Olympia Platina,
No.33B, South Phase,
Guindy Industrial Estate,
Chennai-600 032.
Rep by General Manager

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a writ of Certiorarified Mandamus, to call for the records and quash the award dated 06.03.2020 passed in C.P.No.86 of 2020 by the I-Additional Labour Court, Chennai and consequently direct the respondent to pay the petitioner a sum of Rs.1,33,127/- being the Annual Earned Leave encashment.

For Petitioner : Mr.D.Baskar

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



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ORDER

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This Writ Petition is filed seeking issuance of a Writ of Certiorarified Mandamus to quash the award dated 06.03.2020 passed in C.P.No.86 of 2020 by the I-Additional Labour Court, Chennai and consequently, directing the respondent to pay a sum of Rs.1,33,127/- to the petitioner.

2. The petitioner was appointed as National Manager-Statutory and Compliance at the respondent company on 18.09.2017. He has subsequently resigned from service after working for a period of two years. At the time of his resignation, the respondent company has settled encashment of unavailed, accumulated annual earned leave considering the basic wages and not on the basis of gross wages which includes monthly fixed components. The petitioner has approached the Labour Court and filed C.P.No.86 of 2020. The Labour Court has disposed of the said C.P.No.86 of 2020 holding that the petitioner is not a workman under Section 2(s) of the Industrial Dispute Act, 1947 and he was working with the respondent in a supervisory/managerial capacity. Aggrieved by the same, the present writ petition is filed.



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3. On perusal of the impugned order of the Labour Court in C.P.No.86 of 2020, the only point to be considered is whether considering the nature of the work that was being discharged by the petitioner can be termed as workman under Section 2(s) of the Industrial Dispute Act, 1947 and cannot be termed as a person working in the supervisory/managerial capacity. The petitioner was appointed, as per the appointment letter, as National Manager-Statutory and Compliance. It is settled legal position that the nomenclature of the designation of an employee itself designed whether is a workman or a Manager. In order to decide whether the petitioner is a workman or a Supervisor or a Manager, his nature of duties have to be considered. The petitioner was asked to support a) Statutory and Compliance segment of ADP India Private Limited, b) Payroll segment, c) Payroll implementation segment, d) Client Account Management Segment, e) client representative, f) potential client representative (pre-sales and sale closing). Further, the petitioner was also asked to handle queries and effective solutions to the challenges in Employment legislation, Labour legislation and social security legislation etc., As there were no codified duties and responsibilities, the petitioner was asked to take care as many teams as possible in statutory and compliances segment during his two years tenure. The teams which he controls are excellence,



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labour compliance, CLRA, factory compliance, payroll compliance, pre-sales and statutory implementation.

4. On going through the series of duties and responsibilities entrusted to the petitioner would go to show that the petitioner is not a workman but he was working under managerial capacity. It is true that the petitioner was not granting leaves of his subordinates and he was not taking major decisions. However, he himself was leading many teams and even according to him, he was handling the questions, issues and resolving them in respect of Employment legislation, Labour legislation and social security legislation etc., These are not the activities which will be taken over by the workman. It is to be noted that the petitioner has further mentioned in the affidavit itself that he has also performed other duties like i) instant dissemination of statutory updates and amendments with appropriate compliance to be considered for impacting establishments to keep the clients be aware and make them complied, ii) blog feature writing in ADP India's Web portal and he has written 55 blogs on various labour laws with applicability, definition and impact on the organizations, iii) imparted training sessions on provisions of employment, labour and social security legislations, iv) conducted webinars on



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employment, labour and social security legislations as the respondent/management company is a Global company.

5. The Labour Court, while appreciating these aspects and taking into consideration of the decision of the Hon'ble Apex Court on analysing the duties and responsibilities of the Manager, has held that the petitioner is not a workman under Section 2(s) of the Industrial Dispute Act, 1947.

6. It is further mentioned in the impugned order that as per Ex.R3, which is the organization chart of the respondent company, under the petitioners, number of persons are working and they will report to the petitioner. Therefore, there is abundant material placed before the Court by the management to prove that the petitioner is not a workman but he is a Manager.

7. This Court can interfere with the orders passed by the Labour Court only if it appears that orders are patently perverse and recorded against the settled legal propositions. As discussed above, the Labour Court has passed a well reasoned order and thereby, there is nothing to comment that the orders of Labour Court are



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perverse. Therefore, the impugned order of the Labour Court cannot be interfered with. Accordingly, the writ petition is required to be dismissed. However, the petitioner is at liberty to approach the appropriate Civil Court for redressal of his grievances.

8. In the result, the Writ Petition is dismissed with liberty to the petitioner to approach the appropriate Civil Court for redressal of his grievances. No costs.

03.07.2024

Index: Yes/No
Internet: Yes/No
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To
The I-Additional Labour Court, Chennai



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Dr.D. NAGARJUN,J.,

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**Pre-Delivery Order made in
W.P.No.35382 of 2023**

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