



W.P.(MD).No.11998 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.06.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD).No.11998 of 2024

and

W.M.P.(MD).No.10684 of 2024

The Management,
Ramanathapuram District Central-
Co-operative Bank Limited,
No.256-E, Vandikkara Street,
Ramanathapuram,
Ramanathapuram District.

... Petitioner

Vs.

1.R.Malathi

2.The Appellate Authority,
Tamil Nadu Shops and Establishment Act,
(Joint Commissioner of Labour),
Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed in T.N.S.E I.A.No.02 of 2024 in T.N.S.E. No.02 of 2024 dated 02.04.2024 by the second respondent and quash the same and consequential direction to dismiss the appeal filed by the first respondent in T.N.S.E.No.02 of 2024 on the



W.P.(MD).No.11998 of 2024

file of the second respondent.

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For Petitioner : Mr.D.Shanmugaraja Sethupathi

For R-2 : Mr.M.Lingadurai
Special Government Pleader

ORDER

Heard Mr.D.Shanmugaraja Sethupathi, learned counsel for the petitioner and Mr.M.Lingadurai, learned Special Government Pleader for the respondents.

2. By consent of both the parties, this writ petition is taken up for final disposal at the admission stage itself.

3. This Writ Petition has been filed seeking to quash the order of the second respondent dated 02.04.2024 and consequential direction to dismiss the appeal filed by the first respondent in T.N.S.E.No.02 of 2024 on the file of the second respondent.



W.P.(MD).No.11998 of 2024

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4. Originally, the first respondent has raised a 2-A dispute by seeking reinstatement against the petitioner. Since there was no settlement arrived, an order has been passed by the Labour Inspector to file an industrial dispute. However, the first respondent without proceeding to file an industrial dispute, had chosen to file an application under Section 41 of the Tamil Nadu Shops and Establishment Act. The petitioner has filed an application by rising his preliminary objection stating that the first respondent has no *locus standi* to file such an application under Section 41 of the Tamil Nadu Shops and Establishment Act before the Assistant Commissioner of Labour.

5. The preliminary contention raised by the petitioner is that there was no employer-employee relationship between the petitioner and the first respondent. However, in the impugned order, it has been stated that the petitioner Management paid the salary and also the EPF contribution for the first respondent and there is a employer-employee relationship between the petitioner and the first respondent and hence, dismissed the application filed by the petitioner Management. However, the learned counsel for the petitioner submitted that the petitioner has not paid EPF



W.P.(MD).No.11998 of 2024

to the first respondent, but all that was done by M/s.CLC Softwares, who is said to be the petitioner's contractor.

6. Since the matter involves lot of factual matrix to be dealt, the petitioner is at liberty to raise all his contention as to the existence of employer-employee relationship before the Assistant Commissioner of Labour during the enquiry proceedings that might be conducted on the application filed by the first respondent.

7. With the above observations, this Writ Petition is **disposed of**.
No costs. Consequently, connected miscellaneous petition is closed.

10.06.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr

To:
The Appellate Authority,
Tamil Nadu Shops and Establishment Act,
(Joint Commissioner of Labour),
Madurai.



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W.P.(MD).No.11998 of 2024

R.N.MANJULA, J.

Nsr

W.P.(MD).No.11998 of 2024

10.06.2024