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W.P.No.16462 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.02.2025

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.16462 of 2012

And

M.P.No.1 of 2012

The Management
Zakir Prime Tannery
No.86 & 87, MBT Road,
Ranipet, Vellore Dt.

... Petitioner

Vs.

1.The Presiding Officer,
Principal Labour Court,
Vellore.

2.A.Anandhan

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records in I.D.No.163 of 2008 on the file of the first respondent and quash the award dated 05.04.2011 passed in I.D.No.163 of 2008.

For Petitioner : Mr.D.Abdulla
For Respondents : R1 – Court
R2 – No Appearance

O R D E R

The petitioner has filed this writ petition seeking issuance of



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Writ of Certiorari calling for the records in I.D.No.163 of 2008 on the file of the first respondent and quash the award dated 05.04.2011 passed in I.D.No.163 of 2008.

2.The case of the petitioner is that the petitioner was engaged in the business of running leather tannery and was engaging around 5 to 10 persons depending on the order position and the establishment was closed on 30.04.2012 and the accounts of all the workmen were settled. The second respondent was a daily wager who used to work sporadically under the petitioner and he had not worked continuously for 480 days in two years. However, the second respondent raised industrial disputes in I.D.No.163 of 2008 before the Labour Court as though he had worked continuously for 480 days in two years and the Labour Court passed award dated 05.04.2011 directing the petitioner to reinstate the second respondent in service with continuity of service and all other attendant benefits and observed that the second respondent is entitled to get 25% of backwages only. Challenging the same, the petitioner has filed this writ petition.

3.Before the Labour Court, the second respondent has examined himself as W.W.1 and marked exhibits Ex.W1 to Ex.W3. The petitioner



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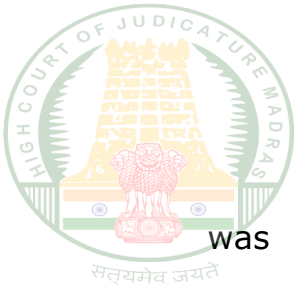
has examined one witness M.W.1 and marked exhibits Ex.M1 to Ex.M5.

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4.The learned counsel appearing for the petitioner submitted that the second respondent is not a workman in terms of Section 2 (5) of the Industrial Disputes Act and he had not worked continuously for 480 days in two years, however, the Labour Court passed the impugned award ordering 25% backwages. The learned counsel further submitted that due to financial loss, the petitioner tannery was closed on 30.04.2012.

5.Heard the learned counsel appearing for the petitioner. Though the name of the second respondent is printed in the cause list, there is no representation for the second respondent. Considering the pendency of the writ petition, this Court is inclined to proceed with the case and decide the same based on the materials available on record.

6.Admittedly, the second respondent was employed as a daily wager under the petitioner Management. Though the petitioner claim that the tannery was closed during the year 2012, the industrial dispute was raised in the year 2008 and award was passed during the year 2011. At the relevant point of time, the petitioner establishment



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was profitably running. Though the Labour Court has ordered reinstatement, since the petitioner establishment was closed on 30.04.2012 and now reinstatement after nearly 13 years from the date of closure of the petitioner establishment, is not possible. Hence, in order to strike the balance, this Court is of the opinion that a sum of Rs.1 Lakh would be a justifiable compensation to the second respondent.

7.The petitioner is directed to pay a sum of Rs.1,00,000/- [Rupees One Lakh Only] in full quit, to the second respondent, within a period of eight weeks from the date of receipt of a copy of this order.

8.The writ petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

10.02.2025

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

1.The Presiding Officer,
Principal Labour Court,
Vellore.

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M.DHANDAPANI,J.
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