



W.P.No.26992 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 10.02.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.26992 of 2010

and

M.P.No.1 of 2010

and

M.P.Nos.1 & 2 of 2011

The Management of
Sungwoo Gestamp Hitech (Chennai) Ltd.,
(Formerly known as JBM Sungwoo Ltd.,)
G17/18, Sipcot Industrial Park,
Irungattukottai,
Sriperumbudur Taluk,
Kancheepuram District - 602 105.
Represented by its General Manager - IR

...Petitioner

Vs.

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

2. M.Narendrakumar

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records of the first respondent in I.D.No.835 of 2001 and quash its award dated 17.09.2010.

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For Petitioner : Mr.Ravindran
for M/s.T.S.Gopalan and Co.

For Respondents : R1 - Labour Court
Mr.V.Porkodi for R2

ORDER

This Writ petition has been filed seeking quashment of the order dated 17.09.2010 made in I.D.No.835 of 2001 by the first respondent.

2. The learned counsel for the petitioner submitted that the petitioner is a supplier to Hyundai Motors India Limited, having factory in the Sipcot Industrial Park, Irungattukottai in Sriperumbudur. The second respondent was engaged as Apprentice and was given Pre-apprentice Traineeship for twelve months. He was issued a memo for a defect in the part welded by him and since he showed no improvement in the job assigned to him, his traineeship was put to an end on 07.08.2001 though it was to end on 31.12.2001. Pursuant to the same, the second respondent raised Industrial Dispute challenging his cessation of training in I.D.No.835 of 2001. Documents were marked and witnesses were examined. Ex.M10 is the copy of certified copy orders applicable to the petitioner establishment. The Tribunal, after going through the materials placed before it, came to the



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conclusion that the second respondent was engaged as regular workman and his cessation of service without holding domestic enquiry was not valid and directed the petitioner Establishment to reinstate the second respondent as an employee but without continuity of service, backwages and other attendant benefits.

3. The learned counsel for the petitioner contended that the Tribunal failed to appreciate that in the order of appointment issued to the second respondent, it was specifically stated that 'during the period of apprenticeship training, their initial training is liable to be terminated without assigning reasons, without notice and without any compensation in lieu thereof at the discretion of the company at any time during this period'. However, ignoring the above, the first respondent has erroneously held that the termination of the second respondent would amount to retrenchment in terms of Section 2(oo) of the Industrial Disputes Act. Accordingly, the learned counsel for the petitioner sought for setting aside of the impugned award.



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4. Per contra, the learned counsel for the second respondent would submit that he has been engaged by the petitioner Management from 03.07.1998 and he had worked for more than 240 days even the standing orders of the Management do not speak about any training programme and that the second respondent has been engaged in direct production related activities from 01.01.1999. Therefore, the second respondent cannot be stated to be engaged only as a trainee. That apart, the Management ought not to have terminated the second respondent without issuing prior notice or conducting any enquiry and without any compensation. Therefore, the Labour Court was right in coming to a conclusion that the second respondent has to be treated as workman and that his termination was unjustified. Accordingly, the award passed by the first respondent/Labour Court need not be interfered with.

5. This Court considered the said submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.



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6. The Tribunal, after going through as many as eleven documents on the side of the workman and ten documents on the side of the Management, has categorically come to the conclusion that though the second respondent was engaged as a Trainee, his appointment order and other subsequent communications consisting components such as PF, over time, bonus, ESI etc., which would sufficiently prove that the second respondent was engaged as a workman and not a trainee. Accordingly, the categorical conclusion arrived at by the Tribunal that the second respondent has to be treated to be workman need not be interfered with. However, since the Industrial Dispute was filed in the year 2001 and the employee was initially engaged from the year 1998, no purpose would be served in confirming the order of reinstatement passed by the Tribunal at this length of time. Therefore, in order to strike the balance between the parties, this Court modifies the impugned award passed by the Labour Court as follows:

(i) The petitioner Management is directed to pay a one time compensation of Rs.5,00,000/- (Rupees Five Lakhs only) to the second respondent workman within a period of four weeks from the date of receipt of a copy of this order.



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WEB COPY 7. Accordingly, this Writ Petition is disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

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

To

The Presiding Officer,
Principal Labour Court,
Chennai.



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M.DHANDAPANI, J.

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