



W.P. No.12403 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2025

CORAM

THE HONOURABLE Mr. JUSTICE P.DHANABAL

W.P. No.12403 of 2022
and W.M.P. No.11862 of 2022

M/s. VA Tech Wabag Private Ltd.,
represented by its Manager Legal
Mr. P. Meenakshi Sundaram,
Veeranam Water Treatment Plant,
Head Office at House No.17,
200 Feet Radial Road,
Sunnambu Kulathur, Chennai - 600 117. .. Petitioner

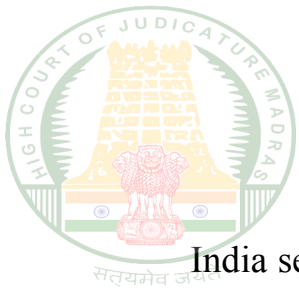
vs.

1. K. Selvakumar S/o. Kannan

2. The Managing Director
Chennai Metropolitan Water Supply &
Sewerage Board,
No.1, Pumping Station Road,
Chindadiripet, Chennai - 600 002.

3. G.R. Subramani
Pentageon Owner,
Pentageon Industrial Services,
No.36/9, South Prakaram Street, Kalaipet,
Chennai - 600 019. .. Respondents

PRAYER: The Writ petition filed under Article 226 of the Constitution of



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India seeking to issue a Writ of Certiorari calling for the records in relating to the Award dated 18.08.2021 passed in Industrial Dispute No.40 of 2016 on the file of the Labour Court, Cuddalore and to quash the same.

For Petitioner : Ms. H. Kalpana

For Respondent : Mr. A. Mohamed Ismail [for R1]
Mr. Gautam S. Raman [CMWSSB]
[for R2]
for R3 - No appearance.

ORDER

This Writ petition has been filed challenging the order dated 18.08.2021 passed in I.D. No.40 of 2016 on the file of the Labour Court, Cuddalore, wherein the 1st respondent herein has raised an Industrial Dispute as against the petitioner and the respondents 2 and 3 and the same was allowed. Aggrieved by the said order, the present Writ petition has been filed.

2. **The short facts necessary to dispose the Writ petition are as follows:-**

The 1st respondent was working as a Chlorine and Ammonia Operator for new Veeranam Scheme from 01.12.2004 and he was working under the



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control of the 2nd respondent in the Vadakuthu Water treatment plant which was under the supervision of the petitioner and the 3rd respondent. The 1st respondent was also holding the post of Secretary, Anna Labour Union and he used to represent the fair demands of the Union members to the Management. So that, the Management developed enmity and thereby, restrained the respondents from doing duty without any prior communication and orally ordered to transfer the 1st respondent to Hyderabad. Thereafter, on 26.11.2014, the Management orally terminated the 1st respondent from service. Therefore, he raised an industrial dispute before the Labour Court, Cuddalore and the same was allowed by the Labour Court and directed the petitioner to reinstate the 1st respondent into service within one month and to pay 50% backwages and all other attendant benefits. Aggrieved over the above said order, the Writ petitioner herein, being the 2nd respondent in the industrial dispute, has filed the present Writ petition.

3. The learned counsel appearing for the petitioner would submit that the 1st respondent, who raised an industrial dispute, was not an employee under the petitioner Company. The petitioner company had not recruited any person for the performance of the project work and it was only the 3rd



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respondent who had recruited the workforce and the petitioner company is not a direct employer of any workers working in the said project. The 1st respondent had been recruited as an Operator by the 3rd respondent on contract basis and he had been deputed by the 3rd respondent to the Veeranam Project undertaken by the petitioner. There is no any direct employer-employee relationship between the petitioner and the 1st respondent. Since there was a requirement of operator in another site where the 3rd respondent undertaken the project and the 1st respondent was transferred to Kothandapur at Andhra Pradesh.

3.1. Thereafter, the 1st respondent raised an industrial dispute before the Labour Cour. The Labour Court came to a conclusion that there was an oral termination order passed against the 1st respondent on 26.11.2014 and the same was set aside and directed the Writ petitioner to reinstate the 1st respondent with continuity of service. In fact, the 3rd respondent himself admitted in the counter that the 1st respondent is an employee of the 3rd respondent and they issued the said order datd 18.11.2014 transferring the 1st respondent to Kothandapur, Andhra Pradesh. Moreover, the 1st respondent also nowhere stated particularly that who employed him and who is his

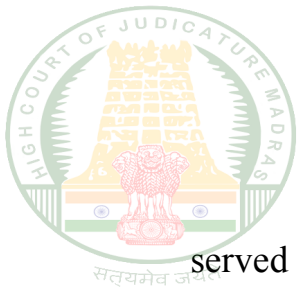


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employer. The petitioner company has not undertaken any project at Kothandapur, where the 1st respondent was transferred. When the 3rd respondent categorically admitted the relationship between the 1st respondent and the 3rd respondent, without any iota of evidence, the Labour Court erroneously came to a conclusion that the 1st respondent was employed under the Writ petitioner. Therefore, the order passed by the Labour Court is liable to be quashed.

4. The learned counsel appearing for the 1st respondent would submit that the 1st respondent was employed under the petitioner's company in a Veeranam Water Plant as Chlorine and Ammonia operator and the said project was under the supervision of 2 and 3 respondents and the 1st respondent was also holding the post of Secretary, Anna Labour Union and he used to represent the fair demands of the Union members to the Management, so that the Management developed enmity and thereby, restrained the 1st respondent from doing duty without any prior communication and he was orally terminated from service on 26.11.2014. Therefore, the 1st respondent raised an industrial dispute and the Labour Court has passed a reasoned order and therefore, the present petition is liable to be dismissed.

5. There was no representation for the 3rd respondent, despite notice



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served and name of the 3rd respondent was also printed in the cause list.

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6. This Court heard both sides and perused the entire materials available on record.

7. In this case, the relationship between the Writ petitioner and the 1st respondent as 'employer and employee' itself is denied by the Writ petitioner even before the Labour Court. According to the 1st respondent, he was working in the 2nd respondent's Water Treatment Plant at Vadakuthu, which was under the supervision of 2nd and 3rd respondents. The 1st respondent has nowhere stated that under whom he was employed and who is his employer. He simply stated that he was working in the Water Treatment Plant which was under the supervision of the respondents 2 and 3.

8. According to the petitioner, no any direct employment was given to the 1st respondent in the Water Plant and he is not an employee under the petitioner. The said contract was awarded to the Writ petitioner and the 3rd respondent is the Sub-Contractor. The 3rd respondent also admitted that the 1st respondent was working under him and he only transferred the 1st



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respondent to Andhra Pradesh. The 1st respondent also admitted his transfer to the Andhra Pradesh by the 3rd respondent. While so, the Labour Court without considering the admitted facts and without any materials and without any piece of evidence, erroneously held that the 1st respondent was working under the Writ petitioner. Moreover, the 1st respondent, either in the claim petition or in the proof affidavit, nowhere stated that who is his immediate employer and under whom he was working and who appointed him. Nowhere he stated that he was appointed by the Writ petitioner and was working under his control. During the cross examination, the 1st respondent has stated that the 3rd respondent alone paid salary to him and he was working under the supervision of the 3rd respondent, from 2010 onwards, the 3rd respondent was only paying gratuity, medical insurance and bonus and also he admitted that there is no any agreement between Writ petitioner and the Union.

9. Further, the 1st respondent has also admitted that there is no document to show that he was appointed by the Writ petitioner. Further the 1st respondent himself admitted that the 3rd respondent only orally terminated the 1st respondent from service and without considering all these facts, the Labour Court passed the impugned order. Further the Labour Court

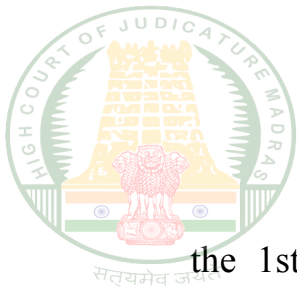


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also admitted the Settlement under Section 12(3) of the Industrial Disputes Act between the 3rd respondent and the Union. Therefore, without any piece of evidence and without framing appropriate points for determination, the Labour Court came to a wrong conclusion. Since there is no employer-employee relationship between the Writ petitioner and the 1st respondent and the admission made by the 1st and the 3rd respondents, the findings rendered by the Labour Court are without any basis and the same is unsustainable. It is true that the 3rd respondent is a Sub-Contractor of the Writ petitioner. Merely because the petitioner is a Contractor under principal employer, liability cannot be fastened to him when the direct 3rd respondent himself admitted the relationship and ready to give employment to the 1st respondent.

10. Once the relationship between the 1st respondent and the 3rd respondent is admitted by the parties, the Writ petitioner is not liable to pay any backwages and at the same time, the 3rd respondent even before the Labour Court admitted that the 1st respondent was working under him and the 1st respondent was transferred to Andhra Pradesh, but without accepting the said transfer order, the 1st respondent has raised an industrial dispute. Even before the Labour Court, the 3rd respondent was ready to give employment to

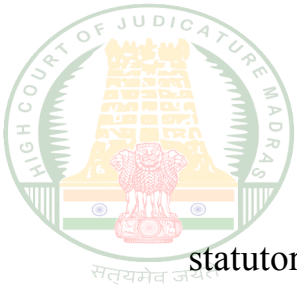


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the 1st respondent, but the 1st respondent refused for the same. Even according to the 3rd respondent, no termination order was passed and the 1st respondent also admitted that no written termination order was passed and he was orally directed not to come to office. When the transfer order is admitted by the 1st respondent himself, it is his duty to obey the order of transfer or otherwise he could have challenged the transfer order. Without doing the same, the 1st respondent raised an industrial dispute. Therefore, there is no fault on the side of the 3rd respondent and only in order to circumvent the transfer order, the 1st respondent raised this industrial dispute. Therefore, it is not appropriate to direct the Writ petitioner to reinstate the 1st respondent into service and to pay backwages.

11. The Labour Court relied the judgment of ***Bombay High Court in Sudarshan Chemical Industries Ltd., vs. Labour Commissioner and others reported in 2014 LLR 1978*** and the same is not applicable to the present facts of the case. In the case on hand, the 1st respondent has not denied the contract between the Writ petitioner and the 3rd respondent and the workman never stated that he was appointed in an employment by the Writ petitioner. Per contra, he admitted that the 3rd respondent only paid salary and other



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statutory benefits.

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11. Even now, the 3rd respondent is ready to give employment to the 1st respondent. Therefore, it is for the 1st respondent to approach the 3rd respondent for his employment within **one month from the date of receipt of a copy of this order** and if any request made by the 1st respondent, then the 3rd respondent has to consider his employment. The 1st respondent is only entitled to 50% backwages from the 3rd respondent from the date of non-employment till the date of the order of the Labour Court, since, he himself refused to go to work even after the offer made by the 3rd respondent.

12. With the above terms, this Writ petition is partly allowed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

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Index : Yes/No.
Speaking order/non-speaking order
mjs

P. DHANABAL, J.,



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The Managing Director
Chennai Metropolitan Water Supply &
Sewerage Board,
No.1, Pumping Station Road,
Chindadiripet, Chennai - 600 002.

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