



W.P. No.35065 of 2012

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2025

CORAM

THE HONOURABLE Mr. JUSTICE P.DHANABAL

W.P. No.35065 of 2012
and W.M.P. No.1 of 2012

M/s. Elite Natural Private Limited,
Formerly M/s. Elite Bakers Private Limited,
Having their registered office at
22A, Development Plot P.O.,
Peringandoor, Thrissur – 680 581.
Having factory at Plot No.21, SIPCOT,
Phase-II, Hosur – 635 109
Represented by its Manager Legal and authorized
Representative Ms. Bindhu Shyam .. Petitioner

vs.

1. The Presiding Officer,
Labour Court,
Salem.

2. R. Gopalakrishnan S/o. P.K.N. Ramaiah .. Respondents

PRAYER: The Writ petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorarified Mandamus calling for the records relating to the order of the 1st respondent in I.D.O.P. No.343 of 2002 dated 29.06.2012 and quash the same.



contractors to do the work and the contractors, in turn, engaged coolies. The 2nd respondent could have been one of such contract workers. The 2nd respondent's name was not reflected in the ESI and PF records maintained by the petitioner, since he was not employed under the petitioner company. The 2nd respondent fabricated the letters and other documents and thereafter, he raised an industrial dispute before the Labour Court and the Labour Court without considering the case of the petitioner that the very relationship between the petitioner and the respondent as employer and employee was denied and the 2nd respondent failed to prove the same with sufficient evidence and also the 2nd respondent fabricated the documents and did not come to the Court with clean hands, passed an order erroneously and therefore, the order passed by the Labour Court is liable to be set aside.

3. The case of the 2nd respondent is that he jointed as Mixing Operator in the Writ petitioner Company. Initially he was inducted as a trainee and thereafter, his service was regularized on 06.03.2000. While so, without any enquiry and valid reasons and without any notice, he was orally terminated from service on 23.09.2001. Immediately, the 2nd respondent raised an industrial dispute. Based on the failure report by the authorities concerned, he raised an industrial dispute. Before the Labour Court, Salem he



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was examined as PW1 and Ex.P1 to Ex.P.9 were marked.. On the side of Management, RW1 was examined and Ex.R.1 to Ex.R.12 were marked. Thereafter, the Labour Court, after considering all the aspects, passed a reasoned order and therefore, the present Writ petition is liable to be dismissed.

4. The learned counsel appearing for the petitioner would submit that the respondent was not even appointed as an employee by the petitioner company and he created the documents and there are so many contradictions between the documents. The date of joining as per the petition is 30.06.1998 and the date of his regularization of service was on 06.03.2000 and he was removed from service on 23.09.2001. But Ex.P1 was dated 30.06.1998 and the time for reporting duty was fixed on 01.07.1998. The said appointment order is denied by the petitioner Management. In the said appointment letter, the seal of the petitioner company is mentioned as Elite Bankers Pvt Ltd., and the mobile number is also mentioned in the letter head. In fact, on that date, no mobile phone was used by the petitioner company and the petitioner had used only 'pager'. Further, Ex.P2 shows that on 05.08.1999, it was issued and it refers that the petitioner rendered service on 01.07.1999, that is contra to the previous appointment letter. Therefore, there are contradictions between



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Ex.P.1 and Ex.P.2. Those letters were not even issued by the petitioner Management. The petitioner also produced Ex.P.3 dated 06.03.2000 referring letter dated 04.08.2000, which is post-dated. Further, there are so many contradictions in the evidence of PW1 and therefore, the above said discrepancies have not been considered by the Labour Court, but without considering the above said aspects, the Labour Court has allowed the petition and hence the award of the Labour Court is liable to be set aside.

5. The learned counsel for the 2nd respondent would submit that the 2nd respondent was appointed as Mixing Operator on 30.06.1998 and thereafter his service was regularized on 06.03.2000. While so, without any reasons and serving any notice, orally the petitioner Management terminated the service of the petitioner on 29.03.2001. At the time of his termination, he had drawn a sum of Rs.3,000/- as salary. In spite of repeated requests made by the 2nd respondent, the Management had not offered any employment. Therefore, he raised an industrial dispute before the Labour Court and he was examined as PW1 and marked Ex.P.1 to Ex.P.9. On the side of Management, RW1 was examined and Ex.R.1 to Ex.R.12 were marked. The Labour Court, after careful consideration, has correctly allowed the petition and rejected the contention of the Writ petitioner. Therefore, the order of the Labour Court is a



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reasoned one and the present Writ petition is liable to be dismissed.

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6. Heard both sides and perused the materials available on record.

7. In this case, the relationship as ‘employer’ and ‘employee’ itself is denied by the Writ petitioner. The 2nd respondent has produced the documents for his appointment and in the said appointment letters, there are discrepancies. However, the petitioner Management itself, in its counter, admitted that they entrusted the contract for the construction of building and erection of machines. The 2nd respondent worked as ‘coolie’ with the said contractor. Therefore, he claimed that he might have been one of the contractors employed. Therefore, the Writ petitioner has not totally denied the employment of the 2nd respondent. In this context, during the cross examination of PW1, there was a suggestion that the 2nd respondent was working as building worker, during the construction of the building. Therefore, the real things have not been brought to the Court entirely by both the parties.



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8. Moreover, the petitioner's side, being the respondent in the industrial dispute, in the proof affidavit stated that there are so many discrepancies in the salary slips in respect of salary. As per Ex.P.8, Gross Salary is Rs.1,500/-, PF deductions - Rs.108/-, ESI - Rs.22/- and net Salary - Rs.1,370/-. But no records were produced to show the PF and ESI deductions. Further, according to Ex.P.3 dated 06.03.2000, the basic Wages Rs.1,000/-, DA - Rs.600/-, HRA - Rs.500/-, Conveyance - Rs.400/- and educational allowance - Rs.500/-, total Rs.3,000/-, but Ex.P.8 shows that his net salary was Rs.1,500/-. Therefore, there are so many discrepancies in the documents submitted by the workman side.

9. In this context, the Labour Court, in its order, has not discussed anything about the above said discrepancies and only relied upon the cross examination of PW1 and allowed the industrial dispute. Though there are some discrepancies in the documents based on the admission made by the 2nd respondent that he was engaged as 'coolie' for the building works and also considering the long pendency of the Writ petition, it is appropriate to award a lumpsum amount of Rs.1 lakh to the 2nd respondent instead of reinstating him with 50% backwages and continuity of service.



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10. Therefore, in view of the above said discussions, this Court is of the opinion that the order of the Labour Court is to be modified as dictated above.

11. In the result, this Writ petition is partly allowed and the award passed by the Labour Court is ***modified to the effect that the 2nd respondent is entitled for a sum of Rs.1 lakh as compensation instead of reinstatement and the Writ petitioner is directed to pay a sum of Rs.1 lakh (Rupees One lakh only) within one month from the date of receipt of a copy of this order. However, 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

To

The Presiding Officer,
Labour Court,
Salem.



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P. DHANABAL, J.,

mjs

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