



W.P.No.37857 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2025

CORAM :

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

W.P.No.37857 of 2015

and

WMP.Nos.1285 & 1286 of 2018

The Management of Vedanta Ltd.,
(Formerly known as Madras Aluminium Company Ltd),
Mettur Dam, Salem District – 636 402.
Rep. by its Authorised Signatory/
Associate General Manager.

...Petitioner

Vs.

1. The Presiding Officer,
Labour Court,
Salem.

2. P.Murugesan

...Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for the records of the 1st respondent in I.D.No.533 of 2004, quash its award dated 13.04.2015.

For Petitioner : Mr.P.Raghunathan,
for M/s.T.S.Gopalan & Co.

For Respondents : M/s.N.Kanthimathi
for M/s.S.Girija, for R2
: R1 – Court



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ORDER

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2. The case of the petitioner/management is that the petitioner is the successor-in-interest for the residual business of erstwhile the Madras Aluminium Company Limited (in short 'MALCO') by virtue of a scheme of Amalgamation sanctioned by the Hon'ble Bombay High Court, Goa Bench and the Hon'ble Madras High court. The Petitioner operated a factory in Mettur, Tamil Nadu, engaged in the manufacturing of Aluminium ingots, wire rods, and bus bars and employed over 700 workers prior to suspension of operations during November 2008. While core operations were carried out by directly employed workers, non-core jobs like garden and sanitation works were outsourced to contractors. One such contract was awarded to one T.Ramani under a service order dated 06.07.2002. Under this contract, the 2nd respondent and others were engaged to perform sanitation and garden work. While so, all of a sudden, the 2nd respondent stopped reporting to work from 14.05.2003 and subsequently raised an industrial dispute before the 1st respondent in



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I.D.No.533 of 2004 alleging wrongful termination and seeking reinstatement with back wages. At the same time, the said T.Ramani and the persons employed by him raised a demand of absorption into the service by the petitioner, and since the same was rejected by the petitioner, they approached the Deputy Chief Inspector of Factories, Salem under the Tamil Nadu Establishments (Conferment of permanent status) Act, 1981, who in turn allowed the said claim, vide order dated 04.01.2005 and permanent status was granted to the said T.Ramani and four others. Challenging the same, the petitioner Management filed a Writ petition before this Court in W.P.No.5156 of 2005, in which, a stay of operation was passed against the said order. While such being the case, despite the fact that there is no employer-employee relationship between the petitioner and the 2nd respondent, the Labour court passed the present impugned award in I.D.No.533 of 2004 dated 13.04.2015 ordered for reinstatement of the 2nd respondent along with 50% back wages. Challenging the same, the present writ petition has been filed.

3. Learned counsel for the petitioner submitted that there is no employer-employee relationship in between the petitioner and the 2nd respondent. In fact, the 2nd respondent is employed with the said Ramani,



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who entered contract agreement with the petitioner for providing manpower for Gardening and Housekeeping services and subsequently it was the 2nd respondent who did not report to duty. If at all the 2nd respondent is aggrieved, he had to file a dispute as against the contractor, the said Ramani under the Contract Abolition Act or under any other Act before the competent authority and not as against the petitioner. While so, the 2nd respondent raised the dispute by impleading the petitioner as employer, which is not sustainable and the 2nd respondent had miserably failed to adduce any evidence before the Labour Court to prove the employer-employee relationship between the petitioner and the 2nd respondent and no appointment order or any work certificate was marked by the 2nd respondent before the Labour Court. Even then, the 1st respondent/Labour Court ordered for reinstatement with 50% back wages, which is wholly unsustainable.

4. Per Contra, the learned counsel appearing on behalf of the 2nd respondent submitted that, in order to prove the employer-employee relationship, the 2nd respondent marked exhibits W1 to W6, in which Ex.W4 namely the Identity Card issued by the ESI Corporation to the 2nd respondent shows that the petitioner management paid ESI contribution



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and the petitioner name is mentioned in the Employer column. Apart

from that PF was also paid by the petitioner in favour of the 2nd

respondent and the same is evident from Ex.W5. Further, the 2nd

respondent was employed with the petitioner as early as on 15.05.1995

and the documents Exs.W4 to W6 shows the different contributions

made by the petitioner in favour of the 2nd respondent before the ESI

authority and the EPF authority, which is very much sufficient to hold

that the 2nd respondent is under the employment of the petitioner. Further,

during the Lok Adalat proceedings, the petitioner agreed to pay a sum of

Rs.15,00,000/- as lump sum compensation in favour of the 2nd

respondent. While so, refusing to pay the said compensation earlier

agreed by them is not sustainable. Learned counsel further submitted

that, pursuant to the interim order of this Court, the petitioner also

deposited a sum of Rs.3,00,000/- before the Labour Court. Learned

counsel also submitted that, though the petitioner claimed that the 2nd

respondent was employed with one Ramani contractor, and the said

Ramani engaged 6 persons including the 2nd respondent. However, it is

not the case and the very same Ramani along with other workmen filed

an application under the Conferment of Permanent Status Act and the

same was allowed, vide order dated 04.01.2005. Challenging the same,



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the petitioner preferred Writ petition before this Court in W.P.No.5156 of 2005 and this Court had dismissed the same by upholding the order passed by the Authority under the Conferment of Permanent Status Act, which itself shows that the petitioner did not approach either the Tribunal / Labour court or this Court with clean hands. Accordingly, prayed for dismissal of this Writ petition.

5. Heard learned counsel on either side and perused the materials available on record.

6. It is the case of the petitioner that the 2nd respondent is a contract employee under one Ramani, who entered contract agreement with the petitioner Management. Though such a plea was taken by the petitioner before the Tribunal, however, in order to disprove the same, the 2nd respondent produced the order of this Court made in W.P.No.5156 of 2005, wherein it can be seen that the said Ramani and others employees filed an application under the Conferment of Permanent Status Act on the file of the Deputy Chief Inspector and were granted permanency, by order dated 04.01.2005, against which, the petitioner preferred the above said Writ petition and this Court dismissed the same,



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confirming the order passed by the Deputy Chief Inspector under the Conferment of Permanent Status Act and the above said fact clearly reveals that the Ramani is not a contractor, in fact, he himself is an employee of the petitioner. While so, the version of the petitioner Management alleging that the 2nd respondent is a contract employee under said Ramani is only misconceived and the same cannot be acceded to. The Labour Court has considered all the above said facts and has rightly arrived at the conclusion that the 2nd respondent is employed with the petitioner and ordered for reinstatement with 50% back wages and this Court does not find any fault with the same.

7. However, considering the fact that the dispute was raised in the year 2004 and even after 21 years the dispute was not resolved between the parties, in order to strike a balance between the parties, this Court directs the petitioner Management to pay sum of Rs.15,00,000/- (Rupees Fifteen Lakhs) as full quit in favor of the 2nd respondent, apart from the amount already deposited by the petitioner before the Labour Court and the 2nd respondent is permitted to withdraw the amount of Rs.3,00,000/- deposited by the petitioner before the Labour Court, in pursuant to the interim order passed by this Court, along with accrued interest. The



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petitioner Management is directed to pay the sum of Rs.15,00,000/- in favour of the 2nd respondent within a period of eight weeks from the date of receipt of a copy of this order, failing which the compensation of Rs.15,00,000/- awarded by this Court will carry an interest of 12% per annum from the date of default.

8. With the above observations and directions, this Writ Petition stands disposed of. No costs. Consequently, the connected Miscellaneous petitions are closed.

21.03.2025

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Index : Yes / No
Speaking order : Yes / No
NCC : Yes / No

To

The Presiding Officer,
Labour Court,
Salem.



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M.DHANDAPANI, J.

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