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W.P.No.8739 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.07.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No. 8739 of 2023

&

W.M.P.No. 8922 of 2023

The Management

Aavesh Clothing

Rep. by its Partner Mr. Chandra Prakash Goenka

Having office at No. 3

Maruthachalapuram North

Kottai Thottam

Tiruppur 641 602

...Petitioner

Vs.

K.Vignesh

...Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the entire records pursuant to the award dated 28.09.2022 in I.D.No. 80 / 2020 on the file of Honble Additional Labour Court, Coimbatore quash the same.



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For Petitioner : Mr. S.Saravanan
For Respondent : Mrs. V.Porkodi
For Mr. R.Krishnaswamy

ORDER

The respondent management seeks to set aside the award passed by the Additional Labour Court, Coimbatore, in ID.No.80 of 2020. The facts are as follows.

2. The petitioner is a manufacturer and exporter of garments and has around 110 workers working under them in various capacities. The management maintains attendance registers for permanent workers, temporary workers as well as daily workers. The salary of the permanent workers are remitted to their bank accounts on a monthly basis, and in respect of others it is paid on weekly basis.



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3. The petitioner company was started in the year 1987 at which point in time the name of the company was Go Go Garments. The respondent was appointed as an Office Assistant in the month of September 1992. He had worked in that capacity till the year 2005.

4. It is the case of the respondent workman that the petitioner was already running a businesses in the name and style of “Aavesh International”, Goenka Textiles, G.R.Goenka and Sons, Rishab International and Kumar Gaurav International. The petitioner accounts were being maintained in many of the firms to defraud workers benefits. Deductions in respect of ESI and EPF was also not carried out. The company in which the petitioner was appointed, namely Go Go garments later renamed Aavesh International is now called Aavesh Clothing.

5. Though the company was known by different names, the company was being run in the very same address and was being run by



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Chandraprakash Goenka and Raviprakash Goenka. The respondent would state that he had completed 240 days per calendar year for every year of service from the date of appointment. He has started his career with a salary of Rs.600/- and his last drawn salary was Rs.31,980/-.

6. From 25.03.2020 the company's operation's were suspended owing to Covid 19. Production was also stopped during this period. Thereafter they resumed production on 04.05.2020. However, despite the lockdown, the respondent was regularly attending the company as he was responsible for accounts. The company had paid full salary to all the workers for the month of March 2020. Thereafter, 50% of the salary was paid to its employees including the respondent for April 2020 and in May 2020 also the same rate of salary was paid though operations had resumed.

7. Thereafter, the company agreed to pay 82% of salary from June 2020. The workers were agitated by this and were objecting to this action of the petitioner. Therefore, the managing partner of the



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petitioner company had called the respondent and orally terminated his services with effect from 30.06.2020. This was on account of the fact that the respondent has been demanding settlement of his salary dues. Prior to the termination no domestic enquiry was conducted nor was a notice issued.

8. The said termination was therefore in violation of Section 25 (F) of the Industrial Dispute Act since the respondent company employed over 110 employees. Therefore, the respondent raised a dispute before the Conciliation Officer. The failure report was given by the Conciliation Officer. Ultimately, the matter was referred to the Labour Court in ID.No.80 of 2020.

9. The petitioner management had filed a counter denying the fact that the respondent was their employee since 1992. It is their contention that the company had started only in the month of December, 2016 and it was not a manufacturing unit but was only a unit taking job orders. The petitioner would contend that as and when



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orders were received they had manufactured clothing. They had no brand name of their own.

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10. The petitioner company would submit that they employed less than 50 workers and the strength dwindled to 30. Further, the job work was a seasonal one. It is their contention that in December 2016 the petitioner had joined their service as an Office Assistant. He has never put a continuous service of 240 days. The petitioner had suffered a loss on account of Covid 19 lock down. The production has resumed only on 04.06.2020.

11. It is their contention that the management had paid 50% of the wages and salary for the months of April and May 2020, despite being no work. Thereafter, the respondent was paid 82% of the salary due to partial opening.

12. It is also the contention that the respondent had received full and final settlement of Rs.1,31,338/- and had voluntarily left services



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of the petitioner. That apart, the respondent workman was employed in some other organisation. They therefore sought for dismissal of the Industrial Dispute petition contending that the respondent had left the services on his own accord and there is no question of issuing notice or following the procedure of Section 25(F).

13. The Additional Labour Court, Coimbatore, on consideration of the evidence on record came to the conclusion that the petitioner company had orally terminated the petitioner without conducting a domestic enquiry and such termination was illegal. Therefore, they had directed reinstatement with back wages. The said order is challenged in this proceedings.

14. The learned counsel for the petitioner company would submit that there is no evidence on the side of the respondent to show that he has been in the employment since the year 1992. The petitioner would submit that the respondent has admitted a receipt of a sum of Rs.1,31,338/-, towards full and final settlement of his dues in his cross



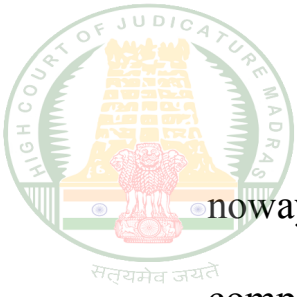
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examination and that he has not proved the fact that he has been employed in the petitioner company since 1992.

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15. Per contra, Mrs. Porkodi, learned counsel appearing on behalf of the respondent workman would contend that the Labour Court has taken note of the fact that the petitioner company herein was engaged in the business of manufacturing and sale and export of garments. The statement of the workman that the company was originally called Go Go Garments and that it is subsequently changed its name to the present name has not been countered by the petitioner management by cross examining the workman.

16. The petitioner company has also not filed any documents to show that the petitioner had quit his job after receiving a sum of Rs.1,31,338/-. On the contrary Ex.M.10 which has been pressed into service to prove that the petitioner has received his full and final settlement only pertained to bonus and settlement for the financial year 2017 and 2019 and the Labour Court has held that this document



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noway proved the fact that the respondent workman had left the company on his volition. Therefore, since there is no proof to show that the respondent has voluntarily left the service the Labour Court has upheld the contention of the respondent that he had been terminated from services without any notice, domestic enquiry or payment of the last drawn salary.

17. Heard the learned counsels and perused the records.

18. The respondent had stated that he has been employed in the petitioner company since 1992. Though in the counter statement statement has been made that the respondent was employed by the petitioner company in the year 2016, the petitioner company has not chosen to cross examine the workman in this regard.

19. Even assuming without admitting that the respondent has been employed in the year 2016 as stated by the petitioner there is nothing to show that the respondent has voluntarily left the service of



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the petitioner company.

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20. Therefore, the findings of the Additional Labour Court, Coimbatore, that the service of the respondent had been orally terminated without following the procedure has to necessarily be upheld and the respondent having proved the employer - employee relationship and that he has been in service of the company since 1992, has to necessarily be reinstated with backwages.

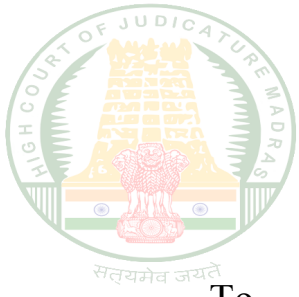
21. Accordingly, the Writ Petition is dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

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Index : Yes/No

Internet : Yes/No

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To
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The Additional Labour Court,
Coimbatore.



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P.T. ASHA, J,

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