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W.P No.6908 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2025

CORAM

THE HONOURABLE MR. JUSTICE **P.DHANABAL**

W.P.No.6908 of 2015
and MP.No.1 of 2015

Chief Executive Officer,
District Forest Officer,
Sandalwood Industrial Complex,
Tirupattur 635 601.
Vellore District.

.. Petitioner

Vs.

1.B.Kumar

2.The Presiding Officer,
Labour Court, Vellore.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, pleaded to issue a Writ of Certiorari, calling for the records in C.P.No.124 of 2012 in I.D.No.35 of 1999 dated 31.07.2013 on the file of the 2nd respondent and quash the same.

For Petitioner : Mr.R.Murthi,
Government Advocate
For Respondents : Mr.S.T.Varadarajulu
for R1
Court - R2



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ORDER

This writ petition has been challenged against the order passed by the Labour Court, Vellore in C.P.No.124 of 2012 in I.D.No.35 of 1999 dated 31.07.2013 and quash the same.

2. The short facts of the case necessary to dispose of this Writ petition is as follows:-

The respondent is a legal heir of the deceased Therasa, who was engaged as a lady Mazdoor in the Additional Sandalwood Depot on daily wages. The deceased workman wages was paid at the rates fixed by the Principal Chief Conservator of Forests/Conservator of Forests, which are equal to the rates fixed by the Labour and Employment Department for the Sandalwood Depot workers. The deceased workman worked on working days in the Depot between 8.30 a.m to 1.00 p.m and 1.30 p.m to 5.00 p.m and they were paid on a muster roll. The deceased workman was not appointed in the sanctioned post, but he was engaged as casual labourers and was paid accordingly. In view of the ban on export of sandalwood imposed by the Central Government and due to a major fire accident that occurred on 16.03.1997 in the Additional Sandalwood Depot, resulting in heavy loss and the closing down of the



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Additional depot, the writ petitioner was unable to afford work for the deceased workman, and he was stopped since 10.09.1997. Therefore, the deceased workman raised an industrial dispute in I.D.No.35 of 1999 before the Labour Court, Vellore to reinstate him with full back wages and continuity of service. The Labour Court allowed the claim petition and passed orders to re-instate the deceased workmen with full back wages, continuity of service and all other monetary benefits, and the said order has not been challenged by the writ petitioner.

2.1. According to the writ petitioner, the Forest Department cannot be termed as an industry within the meaning of the Industrial Dispute Act, and the alleged workmen is not workmen as per the definition of the Act. Therefore, the Labour Court ought not to have entertained the Industrial Dispute against the writ petitioner. Moreover, the deceased workman was stopped due to a major fire accident and non availability of stock. Thereafter, the writ petitioner preferred W.P.No.3476 of 2001, and the said writ petition was dismissed. The Writ Appeal was also filed in W.A.No.581 of 2010 and the same was also dismissed, confirming the order of the Labour Court. Thereafter, the



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matter was taken to the Hon'ble Supreme Court through SLP.Nos.12381

to 12402 of 2012, which was converted to Civil Appeal Nos.1311 to

1332 of 2013 and the same is pending before the Supreme Court of India.

In the meantime, the deceased workman has filed a computation petition

in C.P.No.124 of 2012, which was allowed by the Labour Court,

directing the respondent to pay the petitioner a sum of Rs.1,41,667/-.

Challenging the said order passed in the computation petition, the present

writ petition has been filed by the writ petitioner.

3. The learned counsel appearing for the writ petitioner would submit that the deceased workman was engaged as casual labour in the Additional Sandalwood Depot on the daily wages. Thereafter, due to a major fire accident on 16.03.1997, the Additional Sandalwood Depot in Tirupathur was closed, and the deceased workman was stopped from working since 10.09.1997. Therefore, the deceased workman raised industrial dispute in I.D.No.35 of 1999 before the Labour Court, Vellore and the Labour Court allowed the claim petition to reinstate the petitioner with full back wages, continuity of services, and all other monetary benefits. Thereafter the said award was challenged through



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W.P.No.3476 of 2001 and the same was dismissed, confirming the order of the Labour Court through an order dated 01.12.2009. Thereafter W.A.No.581 of 2010 was preferred, and the same was also dismissed, confirming the order of the Writ Court. Thereafter, the writ petitioner herein preferred SLP, and the same was converted into Civil Appeal Nos.1311 to 1332 of 2013 and the same was pending before the Hon'ble Supreme Court of India. Meanwhile, the deceased workman filed a computation petition in C.P.No.33 of 2010 before the Labour Court and the Labour Court allowed the petition with a direction to the writ petitioner to pay a sum of Rs.1,41,337/-. Therefore, he is now challenging the computation petition through this writ petition. In fact, the applicability of the Industrial Dispute Act itself is being challenged by the writ petitioner, and the same is pending adjudication before the Hon'ble Supreme Court. However, the computation petition was allowed by the Labour Court. Therefore, the order passed by the Labour Court in the computation petition is liable to be set aside.

4. The learned counsel appearing for the respondent would submit that the deceased workman was working under the writ



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petitioner's sandalwood depot, and he was denied work, thereby he raised an industrial dispute in I.D.No.25 of 1999 and the same was allowed. As per the order of the Labour Court, the writ petitioner management has to reinstate the workman with full back wages and continuity of services and all other monetary benefits. The said order of the Labour Court was challenged by the management writ petitioner, and the same was dismissed. A writ appeal was also preferred by the writ petitioner management, and the same was also dismissed and thereafter they preferred Civil Appeal Nos.1311 to 1332 of 2013 before the Hon'ble Supreme Court and it is also pending for adjudication. The main contention of the writ petitioner is that the Forest Department does not come under the definition of an industry, and thereby, the Industrial Dispute Act does not apply to him. However, there is no stay order passed by the Hon'ble Supreme Court, therefore, the writ petitioner is entitled to the benefits of the order of the Labour Court, and thereby they filed a petition for computation and the same was also allowed, and the Labour Court computed the amount of Rs.1,41,667/-. Therefore, the order of the Labour Court is based on the main industrial dispute. Hence, the present writ petition is liable to be dismissed.



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5. This Court heard both sides and perused the materials

available on record.

6. In this case, there is no dispute that the deceased workmen was engaged as mazdoor in the Additional Sandalwood Depot at Tirupathur and due to a major fire accident, the writ petitioner was unable to afford work to the deceased workman, and he was stopped from work since 10.09.1997. Challenging the denial of work, the deceased workman raised an industrial dispute in I.D.No.35 of 1999 before the Labour Court, Vellore and the same was allowed, directing the writ petitioner management to reinstate the deceased workman with full back wages and continuity of services and all other monetary benefits. Thereafter, the said order was challenged through W.P.No.3476 of 2001, and the same was dismissed on 01.12.2009, by confirming the order of the Labour Court. The order of writ petitioner was challenged through W.A.No.581 of 2010 and the same was also dismissed. Against which, the Forest Department preferred SLP before the Hon'ble Supreme Court, which has now been converted into Civil Appeal Nos.1311 to 1332 of



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2013 and the same is pending before the Supreme Court. All the above said facts are admitted by both the parties.

7. In the meantime, the deceased workman filed a computation petition before the Labour Court and the Labour Court also computed the amount and directed the writ petitioner management to pay a sum of Rs.1,41,667/-. The main grievance of the writ petitioner is that the very applicability of the Industrial Dispute Act itself is in question and it has to be decided by the Hon'ble Supreme Court. In the meantime, the deceased workman filed a computation petition and also tried to execute the order, therefore, if the order is executed without considering the pendency of the Civil Appeals, pending before the Supreme Court, it would cause prejudice to the writ petitioner. Since the Civil Appeals are pending before the Supreme Court, the point of whether the Forest Department comes under the Industries or not has to be decided by the Supreme Court. Since, there is no stay order passed by the Supreme Court and, thus the Labour Court computed the amount of Rs.1.41,667/-.



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8. It is a well settled law that, while pendency of the appeal before the appellate Court if any orders passed by the Subordinates Courts those orders are subject to the outcome of the result of the pending appeal. Though the amount was computed by the Labour Court, so far the order has not been executed. The order passed in Computation Petition in C.P.No.124 of 2012 is based on the order passed in the main I.D.No.35 of 1999. Therefore, the order passed by the Labour Court is subject to the outcome of the result of the Hon'ble Supreme Court in the pending Civil Appeals. Therefore, this Court need not set aside the order passed by the Labour Court in the computation petition. Since, the Execution Petition is pending before the Labour Court, it is for the writ petitioner to approach the Labour Court in the said Execution Petition by filing appropriate application for a stay the order of execution till the disposal of the appeals before the Supreme Court. On such applications, if any filed by the writ petitioner, the Labour Court has to consider the same on merits in accordance with law.



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9. With the above observations, this writ petition is disposed of. No costs. Consequently connected Miscellaneous Petition is also closed.

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Index: Yes/No.

Internet/Yes/No

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To

1.The Presiding Officer,
Labour Court, Vellore.



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P.DHANABAL.J.

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