



W.P.No.30933 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2025

CORAM

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

W.P.No.30933 of 2014

and

MP.No.1 of 2014

Palani

...Petitioner

Vs.

1. The Presiding Officer,
IIIrd Additional Labour Court,
Chennai – 104.

2. The Management,
ITC Park, Sherton & Towers,
TT K Road, Chennai – 18.

3. A.Anthony Raj

...Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus calling for the records relating to the order of the 1st respondent herein viz., The Presiding Officer, 3rd Additional Labour Court, Chennai – 104, in C.P.No.50 of 2009 dated 03.10.2012 and quash the same and further direct the 2nd respondent herein to pay the arrears amounting to Rs.1,80,000/- as principal and recover the same from the agent as both are joint and severally liable to pay the same.



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For Petitioner : Mr.R.Lawrence

For Respondents : R1 – Court
: No Appearance, for R2
: R3 – Dismissed, vide order dated 20.11.2014

ORDER

The petitioner has come up with this Writ petition seeking quashment of the order passed by the 1st respondent 03.10.2012, refusing to grant him the claim as sought for in the Claim Petition No.50 of 2009.

2. The Brief facts which are necessary to disposal of this Writ petition are as follows:

The petitioner claims himself to be an employee under the 2nd respondent and he claims that he entered into service under the 2nd respondent on 02.01.2004 as Garden supervisor and continued to work in the said post till his oral termination on 15.02.2008. The petitioner filed a Claim Petition No.50 of 2009 claiming a sum of Rs.1,80,000/- towards over time charges, bonus and earned leave wages. The said claim petition was rejected by the 1st respondent, vide impugned order dated 03.10.2012. Challenging the said order, the present writ petition has been filed.



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WEB COPY 3. Learned Counsel for the petitioner submitted that, the petitioner joined the services of the 2nd respondent as a Gardener in the year 2004 and all of a sudden, the 2nd respondent orally terminated the services of the petitioner in the year 2008, after about five years and even the difference of salary was not paid to the petitioner. Thereby, the petitioner filed a computation/claim petition u/s. 33C(2) of the ID Act in C.P.No.50 of 2009 and before the 1st respondent, the petitioner examined himself as P.W.1 to prove his case and the existence of employer-employee relationship between the 2nd respondent and the petitioner and he also marked exhibits P.1 to P.8, however, on the side of the respondents, no documents were marked and no witnesses were examined. However, without considering any of the above said documents, the 1st respondent, vide impugned order dismissed the said petition in respect of the 2nd respondent and allowed the same in respect of the 3rd respondent herein, which is wholly unsustainable. Accordingly, he prayed for appropriate orders.

4. Though notice was served and the name of the 2nd respondent was printed in the cause list, none appeared on its behalf. However,



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considering the period of pendency of this Writ petition, this Court is inclined to dispose of this petition based on the materials available on record.

5. Though the learned counsel for the petitioner submitted that the petitioner was indeed working under the 2nd respondent and therefore, it is the 2nd respondent who has to pay the benefits claimed by the petitioner, however, there is absolutely no evidence produced by the petitioner either before this Court or before the Labour Court to substantiate his claim. Even the affidavit filed by the petitioner in support of this Writ petition is bereft of any particulars and it is as vague as it could be. On the other hand, the 2nd respondent has clearly demonstrated before the Labour Court that there was an agreement between the 2nd respondent management and the 3rd respondent herein who was running an agency and as per the said agreement, whenever the 2nd respondent was in need of any labour, the 3rd respondent would send some labourer. Only in that way, the petitioner was appointed.



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WEB COPY 6. As rightly observed by the Labour Court, there was no employer-employee relationship between the 2nd respondent and the petitioner at any point of time and the petitioner was all along seen working under the 2nd respondent only as per the direction of the 3rd respondent herein. Moreover, there was no written order in any form either appointing the petitioner under the 2nd respondent or terminating the services of the petitioner by the 2nd respondent. Even as per the admission of the petitioner, the termination was only oral. Therefore, as rightly observed by the 1st respondent, the petitioner cannot have any claim as against the 2nd respondent and allowed the same as against the 3rd respondent, in which, this Court does not find any fault with.

7. If at all the petitioner is aggrieved, he could move only as against the 3rd respondent. Hence, by sustaining the impugned order of the 1st respondent, this Court is inclined to dismiss this Writ petition.



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WEB COPY 8. For the reason aforesaid, this Writ petition stands dismissed with a liberty to the petitioner to workout his remedy in the manner known to law as against the 3rd respondent by way of filing appropriate Execution petition before the 1st respondent. No costs. Consequently, the connected Miscellaneous petition is closed.

05.03.2025

skt

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

To

The Presiding Officer,
III Additional Labour Court,
Chennai – 104.



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M.DHANDAPANI, J.

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