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W.P.No.34180 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2025

CORAM:

THE HONOURABLE MR. JUSTICE **D.BHARATHA CHAKRAVARTHY**

W.P.No.34180 of 2025

G.Sethuguru

... Petitioner

Vs

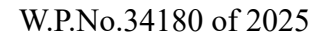
1. The Management of Severn Glucon India Private Limited,
Represented by its Managing Director,
F96, 97, SIPCOT Industrial Park,
Irungattukotai,
Kanchipuram – 602 117.
2. M/s.Royal Care Enterprises,
Man Power Suppliers,
No.E/23, TNHB Colony,
South Sivan Koil Street,
Kodambakkam,
Chennai – 600 024.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for an issuance of Writ of certiorarified mandamus, calling for the records of the Labour Court, Kanchipuram in connection with Award pronounced in I.D.No.527 of 2018 dated 21.06.2024 and quash the same and direct the 1st respondent herein to reinstate the petitioner with continuity of service, back wages and all other consequential benefits and issue such further or other orders.

For Petitioner : Mr.K.Sudalai Kannu
For Respondents : No appearance – ex parte

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This writ petition is filed challenging the award of the Labour Court, Kanchipuram in ID.No.527 of 2018 dated 21.06.2024. By the said judgment, the Labour Court had dismissed the claim petition filed by the petitioner under Section 2(A)(2) of the Industrial Disputes Act, 1947.

2. Heard the learned Counsel for the petitioner. The respondents despite service of notice have not chosen to appear either in person or through Counsel. Therefore, the respondents are called and set *ex parte*.

3. Upon hearing the learned Counsel for the petitioner, perusing the affidavit filed in support of the writ petition and the material records of the case, the case of the petitioner is that he was originally employed by the first respondent / management namely Severn Glucon India Private Limited which is in the business of manufacturing butterfly valve, global valve, check valve etc., The petitioner was one among the 300 workmen in the said factory. The petitioner was employed with effect from 01.09.2011. The petitioner was directly interviewed by the HR Manager of the first respondent namely one Mrs.Banumathi and the petitioner was appointed as the 'Short Blasting



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Operator'. However, after joining service, a sham and nominal offer of appointment was given to him by describing him as a helper, that too by describing as if he is under the employment of a contractor by name M/s.Royal Care Enterprise / the second respondent in the claim petition. The introduction of the name of the second respondent and channelling the salary through the second respondent was sham and nominal and for all practical purposes, the first respondent was working only under the first respondent. The entire work was supervised only by the direct employee of the first respondent and he was in the main production activity. Only when the petitioner became member of the United Labour Federation in the year 2016 and when the petitioner and others participated in the meeting on 15.08.2016, and became member on 03.09.2016, enraged by the same, the petitioner was asked to go on leave on 20.09.2016. On 22.09.2016, the petitioner's wife was called by the Manager and they were threatened to write a letter accepting as if he is a daily rated worker. When the petitioner approached the first respondent / management, he was assured by one HR manager by name Mrs.Deepa, that he will be given employment within two weeks time. However, when the petitioner went to the first respondent on 04.10.2016, he was paid a sum of Rs.5,100/- and he was informed that he was terminated from service with effect from 20.09.2016. The said order amounts to victimisation and the non employment is illegal,



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unfair and unjust. Therefore, the petitioner raised a dispute and before the Conciliation Officer, the first respondent assured that the petitioner will be provided with an employment. After that, with effect from 01.03.2017, the petitioner was provided the work of housekeeping, sweeping, cleaning etc., and was abused and tortured. Even though, the petitioner tolerated all the atrocities during the said period, again from 14.04.2017, the petitioner was terminated from service and thereafter, no final report was issued by the Conciliation Officer.

4. Under the said circumstances, the petitioner filed the present claim petition, which was take on file in ID.No.227 of 2017. The claim petition filed was resisted by the respondents 1 and 2 by filing separate counter statements. The counter of the first respondent is that, the petitioner was only a contract labour and he was only given cleaning, housekeeping works and denied the allegations that were made by the petitioner in the claim petition. The second respondent also filed a counter accepting as if the petitioner was only their employee and supporting the stand of the first respondent. Even though the counter statements were filed by the respondents, subsequently, they remained exparte. After setting exparte, the petitioner was examined as W.W.1 and Ex.W1 to Ex.W6 were marked. The Labour Court, thereafter



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considered the case of the petitioner. The Labour Court considered Ex.W1, the copy of the appointment order by which, it concluded that the petitioner has been appointed only the second respondent and therefore, he can only claim relief from the second respondent. The Labour Court concluded that there exists no employer-employee relationship between the petitioner and the first respondent. The Labour Court held that the claim of victimisation as unjustifiable, since there is no claim against the second respondent under the provisions of the Contract Labour (Regulations & Abolition) Act, 1970. The Labour Court proceeded to dismiss the claim petition as against which, the writ petition is filed.

5. I have considered the arguments made by the learned Counsel for the petitioner, the claim affidavit, counter statements, the evidence let in before the before the Labour Court and the award passed by the Labour Court.

6. A perusal of the proof affidavit filed by petitioner, it is clear that the petitioner has got into box and has stated clearly that he was employed directly by the first respondent and four months after his employment, suddenly records were created as if he is employed by the second respondent and the salary was routed through the second respondent. It is the further



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evidence of the petitioner that he was working as ‘Short Blasting Operator’ and other core manufacturing activities and was not a helper or a cleaning employee. The fact that he was continuously dealt with by the HR managers by name one Mrs.Banumathi at the time of recruitment and subsequently, by one Mrs.Deepa at the time of the conflict and subsequently, at the time of non employment is spoken to. All the ingredients to plead that the attempt of the management to show as if the petitioner is employed through contractor namely the second respondent is sham and nominal is pleaded in the claim petition and the petitioner / workman by adducing evidence as W.W.1 has spoken to about it in the chief affidavit. His testimony that he was directly recruited by the first respondent and thereafter only, the order was created as if he is employed by the second respondent, remains unchallenged. When the management remained exparte, even though the Labour Court at the exparte stage also has to look into the materials and the other circumstances while granting the relief, there is no reason that is given by the Labour Court to reject the testimony of W.W.1 especially when his evidence remain unchallenged. The Labour Court dismissed the petition solely on Ex.W1. When it is the case of the petitioner that Ex.W1 is the creation of the first respondent / management and when the first respondent / management does not thought it fit to contest the case further and remained exparte, the evidence



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that is let in by the workman through his proof affidavit and the other evidence such as medical examination report, appreciation certificate etc., which all reflect as if the petitioner is the workman of the first respondent/management, constitute adequate evidence in the exparte stage to prove the claim of the Workman.

7. Under the said circumstances, I am of the of the view that the approach of the Labour Court, and the findings there on borders on perversity as to the non-consideration of the available material that is the evidence of W.W.1 and the other documentary evidences on record and a finding that is arrived at cannot be said to be a reasonable one. For all the above said reasons, the award of the Labour Court cannot be sustained. When it is the case of the workman that he was unjustly terminated, especially when employing a person on technical basis as a 'Short Blast Operator' and without filing any counter before the Conciliation Officer agreeing to take him back on service and thereafter, make him to sweep the floor, cleaning the toilets etc., thus by attempting to get rid of him by humiliation etc., are all spoken to by W.W.1. In that view of the matter, I am of the view that the entire episode as projected on behalf on petitioner/workman would make the action of the first respondent / management an unfair practice.



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8. The first termination and second termination pending conciliation proceedings all amount to gross illegality. It is only natural that the petitioner be reinstated into service with full back wages. In view thereof, the award passed by the Labour Court, Kanchipuram, in I.D.No.527 of 2018 dated 21.06.2024 is set aside and this Writ Petition stands **allowed**. The petitioner is directed to be reinstated into service by the first respondent / management as a workman in the core manufacturing activity as 'Short Blast Operator' or such other appropriate designation. The petitioner will be entitled to full back wages from the date of non-employment till the date of reinstatement and continuity of service and all other attendant benefits. No costs.

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Neutral Citation: Yes/No



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D.BHARATHA CHAKRAVARTHY, J.

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