

S.Rasu(Died) and ors. Vs.

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Court : Chennai

Decided On : Jul-05-2011

Judge : Vinod K.Sharma, J.

Acts : [Constitution of India](#) - Article 226; Industrial Disputes Act - Section 18(1)

Appeal No. : W.P(MD)No.183 of 2007; W.P(MD)No.184 of 2007; W.P(MD)No.185 of 2007

Appellant : S.Rasu(Died) and ors.

Respondent : The Labour Court and anr.

Advocate for Def. : M/s.R.Sivamanoharan, Adv.

Advocate for Pet/Ap. : M/s.R.Subramanian, Adv.

Judgement :

1. The petitioners have invoked the writ jurisdiction of this Court under Article 226 of the [Constitution of India](#) praying for issuance of writ in the nature Writ Certiorari to quash the awards passed by the Labour Court, Madurai, dismissing the references filed by the petitioners.

2. 12 workmen raised industrial disputes claiming reinstatement with continuity of service and back-wages. It was pleaded by the workmen that they were working with the respondent/company and doing the work of mixing and loading since from

the year 1979. The nature of service of the petitioners was perennial in nature. It was the pleaded case of the petitioners that they worked with eight others in the manufacturing activities of the respondent/company. The petitioners even alleged ill-treatment by the management of the respondent/company. The case set up by the petitioners is that the management created fabricated documents in order to deny the status, salary and other benefits at par with the permanent employee, and further brought the contractor in between the petitioners and the respondent/company.

3. The petitioners were the members of the Madurai Democratic Labour Union.

4. The management contested the claim by denying the relationship of master and servants. The positive stand taken by the management, is that the petitioners are the employees of the contractor therefore the reference deserve to be answered against the petitioners.

5. The learned Labour Court, on appreciation of evidence on record, recorded a finding of fact that the petitioners failed to prove that they were the employees of the respondent/company and the references were accordingly answered against the workmen.

6. The learned counsel for the petitioners challenges the impugned awards, primarily on the ground that the learned Labour Court failed to consider the oral and documentary evidence on record.

7. The workmen in support of their claims had produced the P.F.Contribution and E.S.I Record showing contribution by the respondent/company.

8. It is the contention of the learned counsel for the petitioners that besides documentary evidence referred to above, one workmen appeared in witness-box and supported their claim. The finding of the learned Labour Court therefore, being a perverse, deserves to be set aside and the reference answered in favour of the workmen.

9. The management, on the other hand, in support of their claims, produced an agreement signed between the contractor and the company, and also placed

reliance on the statutory settlement reached under Section 18(1) of the Industrial Disputes Act, which was executed between the petitioners and the contractor.

10. The learned Labour Court by placing reliance on the judgement of this Court in the case of Petroleum Workers Union(represented by Regional Secretary) Hindustan Petroleum Corporation Limited, Chennai and others .vs. Hindustan Petroleum Corporation Limited and others reported in 2004(2) LLN 451, did not rejected the documentary evidence of Provident Fund and E.S.I Contribution and placed reliance on the evidence let in by the respondent/company and came to the conclusion that there existed no relationship of master and servants between the petitioners and the respondent/company.

11. This Court, in the case of Petroleum Workers Union(represented by Regional Secretary) Hindustan Petroleum Corporation Limited, Chennai and others .vs. Hindustan Petroleum Corporation Limited and others reported in 2004(2) LLN 451, has laid down that the provident Fund and E.S.I Contribution do not establish the relationship of master and servants, as even in the case of contract employees, the liability to pay contribution is that of the management.

12. The workmen did not lead any admissible evidence in support of their claims.

13. Only one workmen out of 12 workmen, entered in the witness-box and adduce oral evidence. It is pertinent to take a note of the fact that 9 out of 12 workmen accepted the award and have not challenged the award of the learned Labour Court. The award is challenged by these three writ petitioners.

14. The learned Labour Court also placed reliance on the statutory settlement reached under Section 18(1) of the Industrial Disputes Act, which was entered between the petitioners and the Contractor, and came to the right conclusion that there exists no relationship of master and servants between the petitioners and the respondent/company.

15. The finding of the learned Labour Court is based on correct appreciation of facts as also oral and documentary evidence, which cannot be said to be perverse.

16. Consequently, the Writ is devoid of any merit.

17. For the reasons stated above, the Writ Petitions are dismissed. No costs.

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