

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 9TH DAY OF JULY 2012

BEFORE

THE HON'BLE MR.JUSTICE ARAVIND KUMAR

W. P. No.10556/2012 (L-TER)

BETWEEN:

B.N.SESHAPPA
S/O B.S.NARASHIMAPPA,
AGED ABOUT 34 YEARS,
R/AT 74, 1ST CROSS,
1ST MAIN, N G HALLI,
NAGASANDRA POST,
PEENYA II STAGE,
BANGALORE-560073

... PETITIONER

[BY SRI C.V.MANJUNATHA, ADV., FOR
SRI KANTHARAJA V., ADV.,

AND:

1. THE DIRECTOR
JOHN CRANE SEALING
SYSTEM INDIA PVT., LTD.,
NO.11, PEENYA I PHASE,
TUMKUR ROAD,
BANGALORE-560058.
2. THE MANAGER
ALP MANAGEMENT CONSULTANTS
PVT., LTD., NO.3,
"PEOPLE HUT", 12TH MAIN,
PALACE ROAD,
VASANTH NAGAR,
BANGALORE-560052.

... RESPONDENTS

(BY SRI AIYAPPA, ADV., FOR R1
NOTICE TO R2 DISPENSED WITH)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUA A WRIT OF CERTIORARI QUASHING THE ORDER DATED 13.3.2012 PASSED IN I.D.NO.15/2010 PENDING ON THE FILE OF 1ST ADDITIONAL LABOUR COURT, BANGALORE AT ANNEXURE-F AS ILLEGAL AND CONSEQUENTLY DIRECT THE RESPONDENT NO.1 TO PRODUCE THE DOCUMENTS SOUGHT FOR IN THE APPLICATION AND TO ALLOW THE APPLICATION FILED BY THE PETITIONER AND ETC.,

THIS WRIT PETITION COMING ON FOR ORDERS THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

Though, this matter is listed for preliminary hearing, by consent of learned Advocate, it is taken up for final disposal.

2. In this writ petition, workman has called in question the order passed by the I Additional Labour Court, Bangalore, rejecting the application filed seeking summoning of the documents 1 to 10.

3. Heard Sri C.V.Manjunatha, learned counsel appearing on behalf of Sri V.Katharaja and Sri Ayyappa,

learned counsel appearing on behalf of 1st respondent. Notice to respondent No.2 has been dispensed with.

4. Petitioner claiming to be a workman of the 1st respondent contended that he was illegally terminated and as such, he raised a dispute under Section 10(4-A) of the Industrial Disputes Act, 1947 before the Labour Court and during the course of evidence being recorded, an application seeking summoning of the documents was filed, which came to be resisted by the 1st respondent herein contending that the same is not required for adjudication of the dispute. The Labour Court by its impugned order has rejected the application on the ground that the records sought for do not pertain to the first party and also on the ground that the workman has not made it clear as to how the records are relevant to the present case. It is also opined by the Labour Court that the burden is on the first party workman to prove that he is the direct employee of 1st respondent establishment and he has to discharge the said burden on his own.

5. It is the contention of the learned counsel for the petitioner that documents sought for would clearly go to show that the petitioner has worked for more than 240 days in the 1st respondent establishment and he has discharged duties continuously for more than 240 days from the date of his initial appointment on 8.8.2003 till his service was terminated on 15.2.2010 and to prove that he was the employee of 1st respondent, the documents sought for is necessary and essential and as such he seeks for allowing the writ petition.

6. Per contra, Sri Ayyappa, learned counsel for R-1 would submit that insofar as documents 6 and 7 stated in the application are concerned have been secured from the Contractor and have been produced before the Labour Court and he also undertakes to produce the attendance register insofar as it relates to the present petitioner. As rightly observed by the Labour Court, documents 1, 2, 4, 5, and 8 to 10 insofar as the claim of the workman is concerned, it is not specified in the affidavit filed in support of the application as to how

they are relevant for adjudicating the points formulated by the Labour Court or has any bearing on the dispute. In these proceedings, it has been contended by the workman that he worked for more than 240 days in the 1st respondent establishment and to prove this point, he sought for summoning of the attendance register. Learned counsel appearing for 1st respondent undertakes to produce the same. The prayer of the petitioner is thus partially complied with. Admittedly, 1st respondent has secured the details regarding remittances of PF and ESI and produced the same before the Labour Court. It is also not disputed by the petitioner workman to the extent of the claim made in the application insofar as these two documents are also concerned, have remained complied. However, with regard to other documents the relevancy of said documents sought for have not been explained either before the Labour Court or before this Court. Hence, I am of the considered view that there is no infirmity whatsoever in the impugned order, which calls for interference, at the hands of this Court.

7. In the result, by placing the submission of the learned counsel appearing for 1st respondent, who undertakes to produce the attendance register insofar as the petitioner is concerned for the period from 8.8.2003 to 15.2.2010, this writ petition stands disposed of.

Ordered accordingly.

**Sd/-
JUDGE**

PB