

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 18TH DAY OF MARCH 2015/27TH PHALGUNA, 1936

WP(C).No. 3151 of 2010 (T)

AGAINST THE ORDER/JUDGMENT IN ID 49/1996 of LABOUR COURT, KOLLAM

PETITIONER:

THE GENERAL SECRETARY,PATHANAMTHITTA
JILLA THOTTAM, THOZHILALI UNION (BMS)RANNI
PERUNAD.P.O.

BY ADV. SRI.P.RAMAKRISHNAN

RESPONDENTS:

1. LABOUR COURT,KOLLAM.

2. THE MANAGER,LAHA ESTATE, RANNI,
PERUNAD.P.O.

R BY GOVERNMENT PLEADER SRI BIJU MEENATTOOR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18-03-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS EXHIBITS:

EXT.P1: TRUE COPY OF CLAIM STATEMENT DATED 22.07.1997 FILED BY THHE PETITIONER UNION

EXT.P2: TRUE COPY OF WRITTEN STATEMENT DATED 13.08.1999 FILED BY THE 1ST RESPONDENT MANAGEMENT

EXT.P3: TRUE COPY OF REJOINDER DATED 02.11.1999 FILED BY THE PETITIONER

EXT.P4: TRUE COPY OF THE PRELIMINARY AWARD DATED 20.12.2008 PASSED BY THE 1ST RESPONDENT

EXT.P5: TRUE COPY OF THE AWARD DATED 24.02.2009 PASSED BY T HE 1ST RESPONDENT

EXT.P6: TRUE COPY OF PETITION DATED 20.04.2009 ALONG WITH AFFIDAVIT

EXT.P7: TRUE COPY OF ORDER DATED 25.07.2009 PASSED BY THE 1ST RESPONDENT

RESPONDENTS EXHIBITS : NIL

TRUE COPY

P.A TO JUDGE

jma

K. VINOD CHANDRAN, J

W.P(C) No.3151 of 2010

Dated this the 18th day of March, 2015

J U D G M E N T

The writ petition is filed by the Union against Ext.P4 preliminary order upholding the enquiry against the workman and Ext.P5 award which upheld the dismissal of the workman. On an earlier instance, the preliminary order passed, setting aside the enquiry was challenged by the management before this Court and there was a remand pursuant to which Exts.P4 and P5 orders were passed.

2. It is the submission of the learned counsel for the petitioner that the Union was represented through an office bearer who had fallen sick. The remand made by this Court was without any notice to the Union, seems to be the contention. In any event, the Union filed an application for setting aside the ex-parte award within 30 days, while the Kerala Industrial Disputes

Rules, 1957 prescribes for an application within 15 days. In the circumstances pointed out as also the fact that the application was filed before the Labour Court delayed, but within a reasonable time it would be only proper that the Labour Court adjudicated the matter afresh.

3. The management shall appear before the Labour Court within one month from the date of receipt of a copy of this judgment and the Labour Court shall issue notice to the Union and if no appearance is recorded, then Exts.P4, P5 and P7 shall be in force. However, if the Union or the workman turns up, Exts.P4, P5 and P7 will stand set aside and there shall be an opportunity given to the workman/Union present the matter. The Labour Court shall also dispose of the matter within a period of six months from the date of appearance of the workman. It is also made clear that with respect to the backwages, since it was due to the non appearance of the Union before the Labour Court that the

delay occurred, the Labour Court would be entitled to and should mould the relief, if the reference is found in favour of the workman, so as to not visit the management with undue prejudice.

Writ petition is disposed of with the above observations.

No costs.

Sd/-
(K. VINOD CHANDRAN, JUDGE)

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P.A to Judge