

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 15TH DAY OF JANUARY 2015/25TH POUSHA, 1936

WP(C).No. 35261 of 2005 (W)

PETITIONER(S):

**M/S.EXCEL GLASSES LIMITED,
PATHIRAPPALLY, ALAPPUZHA - 688 521, REPRESENTED
BY ITS VICE PRESIDENT (TECHINICAL), T.C.THOMAS.**

**BY ADVS.SRI.K.ANAND (A.201)
SMT.LATHA KRISHNAN**

RESPONDENT(S):

**1. N.D.MADHAVAN PILLAI,
NAMBIASSERIL HOUSE, KOLLAKKA P.O.,
KARUNAGAPPALLY, KOLLAM.**

2. LABOUR COURT, KOLLAM.

**R1 BY ADV. SRI.P.RAMAKRISHNAN
R2 BY GOVERNMENT PLEADER SRI.V.K.RAFEEQ**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
15-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 35261 of 2005 (W)

APPENDIX

PETITIONER(S)' EXHIBITS:

**EXT.P1: TRUE COPY OF DOMESTIC ENQUIRY FILE CONTAINING REPORT
DATED 10.8.2002 OF THE ENQUIRY OFFICER.**

**EXT.P2: TRUE COPY OF DOMESTIC ENQUIRY FILE CONTAINING REPORT
DATED 14.8.2002 OF THE ENQUIRY OFFICER.**

**EXT.P3; TRUE COPY OF ORDER DTD.22.9.2003 OF THE INDUSTRIAL TRIBUNAL IN
ID MP 5/2002.**

**EXT.P4: TRUE COPY OF THE LETTER DATED 12.9.2002 SUBMITTED BY THE
WORKMAN TO THE MANAGEMENT.**

EXT.P5: TRUE COPY OF THE AWARD PASSED BY THE 2ND RESPONDENT ON 7.6.2005.

**EXT.P6: TRUE COPY OF THE NOTICE DATED 30.8.2005 OF THE 2ND RESPONDENT
LABOUR COURT.**

**EXT.P7: TRUE COPY OF THE DEPOSITION OF THE WW1 RECEIVED FROM THE
2ND RESPONDENT.**

EXT.P8: TRUE COPY OF OS 714/2002 FILED BY THE PLAINTIFF WORKMAN.

**EXT.P9: TRUE COPY OF THE ORDER OF THE ADDITIONAL MUNSIF
DATED 19.11.2002.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

K.VINOD CHANDRAN, J

W.P.(C).No. 35261 of 2005

Dated 15th January, 2015

JUDGMENT

The petitioner is aggrieved with Ext.P5 Award passed by the Labour Court, Kollam. Though considerable arguments were addressed by both sides on merits, this Court would not refer to the same, since the contention essentially is that of an *ex parte* adjudication. The specific ground raised by the Management is indicated at paragraph 11 of the writ petition which is extracted hereunder.

“While the matter stood so, the counsel for the Management was admitted in hospital due to severe stroke and he could not attend court or advise the Management about the further proceedings of the case before the 2nd respondent. It is submitted that the case was posted by the 2nd respondent as ID No.28/04 at its camp sitting at Alappuzha. While the matter was posted for evidence, the workman filed application before the 2nd respondent on

3.2.2005 for posting the case to the Headquarters at Kollam for further proceedings of the case. Copy of the application was not served on the Management. Without due notice to the Management or their counsel, and without calling for any objections from the Petitioner Management, the 2nd respondent posted the case for further proceedings to the Headquarters at Kollam. The Management was not aware of the transfer of the sitting of the court to Headquarters, Kollam. Since the Counsel for the Management was laid up due to severe stroke, it was not possible for the counsel to intimate the Management about the posting of the case to Kollam. Since the counsel was also laid up, he also did not take any action to file counter/objections to the ID or to produce the domestic enquiry file before the 2nd respondent and its evidence in this case to justify the action of the Management in dismissing the workman".

2. In the compelling circumstances put forth by the petitioner Management, it is only proper that the Management be given an opportunity to contest the issue before the Labour Court. In such

circumstances, Ext.P5 would stand set aside. It is made clear that this Court has not looked into the merits of the claim raised by the workmen or the contentions raised in denial of the same. The parties shall appear before the Labour Court, Kollam, on 02.02.2015. The workmen and the Management shall be granted an opportunity to produce any document and matter shall be posted for evidence within a period of one month thereafter. Adjudication shall be completed, at any rate, within six months from the date of appearance of the parties.

The writ petition is disposed of.

Sd/-

K.VINOD CHANDRAN
Judge

MrCs

//True Copy//