

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2015

CORAM:

THE HONOURABLE MR.JUSTICE SATISH K. AGNIHOTRI

AND

THE HONOURABLE DR.JUSTICE P.DEVADASS

W.A.No.1711 of 2015

and

M.P.No.1 of 2015

The Executive Engineer,
TWAD Board,
(Tamilnadu Water Supply and Drainage Board),
Special Division,
Hosur,
Dharmapuri District. ... Appellant/Petitioner

Vs.

1.R.Thirumalaikumar

2.The Presiding Officer,
Labour Court,
Salem District. Respondents/Respondents

Appeal filed under Clause 15 of the Letters Patent against the order passed by this Court dated 16.11.2015 passed in W.P.No.23224 of 2015, filed under Article 226 of the constitution of India praying for the issuance of a writ of certiorari to call for the records of the 2nd respondent made in IA No.94/2011 in IA No.76/2010 in I.D.No.351/98 on the file of Labour Court, Salem, dated 12/12/2012 and Quash the same.

For appellant : Mr.P.H.Arvind Pandian,
Additional Advocate General
for Mr.S.Thamizharasi

JUDGMENT

(Judgment of the Court was made by SATISH K. AGNIHOTRI, J.)

The instant appeal has chequered history. Despite given opportunities on several occasions, the writ petitioner failed to participate in the industrial dispute in I.D.No.71 of 1995 pending before the Labour Court filed by the first respondent.

The writ petition was filed seeking quashment of the order dated 12th December, 2012 passed in I.A.No.94 of 2011 in I.A.No.76 of 2010 in I.D.No.351 of 1998.

2 It is apposite to refer to certain relevant facts before proceeding with the matter :

The first respondent was appointed as Godown watchman in the appellant Board on 3rd December, 1991 through Employment Exchange office. He was given monthly pay of Rs.1050/- on the basis of daily wage. Suddenly, the services of the first respondent was terminated. The first respondent raised an industrial dispute in I.D.No.71 of 1995 before the Labour Court, Salem, seeking for reinstatement in service with all attendant benefits and backwages. As the appellant did not appear, an ex parte award was passed on 23rd October, 1998. Thereagainst, the appellant filed a writ petition, being W.P.No.15408 of 2000. The learned Single Judge, by order dated 21st August, 2007, set aside the award and remitted the matter back to the Labour Court to conduct enquiry afresh and the last drawn wages was also directed to be paid to the first respondent herein till the disposal of the I.D. Again, the Board did not appear before the Labour court to defend their case, which resulted in passing of another exparte award on 31st October, 2008.

3 After a lapse of two years, the appellant filed I.A.No.76 of 2010, seeking to set aside the ex parte award dated 31st October, 2008. That petition was dismissed on 12th November, 2010 as there was no representation for the Board. Again, the appellant Board filed another interlocutory application, being I.A.No.158 of 2010, seeking to set aside the ex parte order of dismissal dated 12th November, 2010. The appellant also filed another application, being I.A.No.94 of 2011, seeking to condone the delay of 100 days in filing the restoration application to restore I.A.No.76 of 2010. The Labour Court dismissed the said application by order dated 12th December, 2012, stating that the appellant herein did not cooperate for the completion of industrial dispute and at every stage, there was delay on their part. Thereagainst, the instant writ petition has been filed.

4 The learned Single Judge, considering the submissions of the learned counsel for the Board, dismissed the writ petition, by order dated 16th November, 2015, holding that the delay on the part of the Board was not explained satisfactorily and even the delay in approaching the writ court also was not properly explained.

5 The facts as stated herein-above are eloquent to establish that the officers responsible for contesting the case had taken their own time. The management was given opportunity once for restoration by remitting the matter to the Labour Court. The officials again failed to attend the proceedings. Even the application for restoration was made belatedly without any justification.

6 The appellant has come up with this appeal, stating that cases could not be attended on account of poor strength of staff. The instant ground was taken into consideration while the matter was taken to the High Court against the exparte award passed on 23rd October, 1998. The learned Single Judge, condoning the deficiency on the part of the officers, set aside the exparte award and remitted the matter back to the labour court for fresh consideration on 21st August, 2007. Thereafter, the officials again failed to attend the proceedings. Thus, this is not a case where the delay or inaction on the part of the officials are justified. We do not find any infirmity with the impugned order passed by the learned Single Judge.

7 The Government and its undertakings are expected to be not only model employer, but model litigant also. There is a growing tendency not to respond to the notices and proceedings pending before the courts and tribunals. The delay, in attending the judicial proceedings, which is the basic fundamental of governance, leads not only loss to the exchequer, but cause irreparable loss and mental agony to the litigating public, who take recourse to the judicial proceedings on account of unjustified orders passed by the authorities. The higher-ups in the system are also oblivious of their responsibility if any officer fail to attend the judicial proceedings. It is the obligation of the higher-ups to initiate action against the officers to bring about a systematic beneficial administration.

8 For the reasons and analysis mentioned herrein-above, the impugned order passed by the learned Single Judge is unexceptionable, fair and proper, warranting no interference. Resultantly, the writ appeal stands dismissed. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

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Sub Assistant Registrar

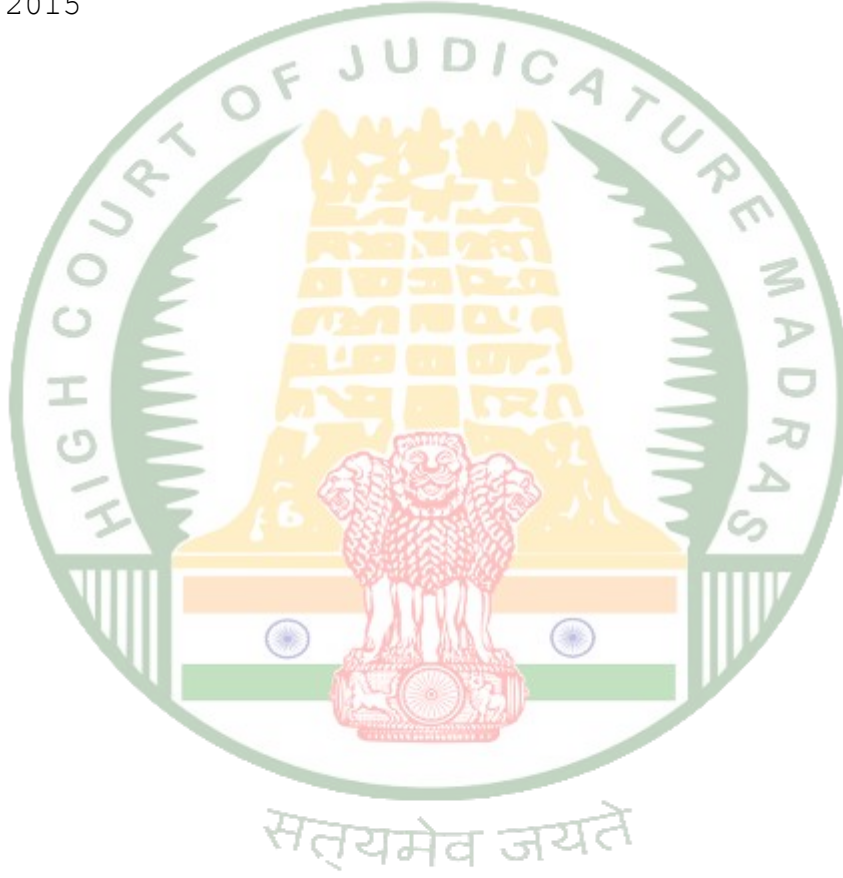
To

The Presiding Officer,
Labour Court,
Salem District.

+lcc to Mr.S.Thamizharasi, Advocate sr.66639

W.A.No.1711 of 2015

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