

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.2.2015

CORAM:

THE HON'BLE MR.JUSTICE V.RAMASUBRAMANIAN  
AND  
THE HON'BLE MR.JUSTICE P.R.SHIVAKUMAR

Writ Appeal Nos.1047 & 1048 of 2012

1.P.Aboobacker [deceased]  
2.P.Sulekha  
3.Sugena P.Aboobacker  
4.P.Shathap Bacher

...Appellants in both Appeals

[Appellants 2 to 4 substituted as  
LRs of the deceased sole appellant,  
vide orders dated 4.12.2014 & 12.2.2015  
made in MP Nos.1 & 1/2014]

vs.

The Management of Western India Plywood Ltd.,  
Chennai - 600 112.  
rep. by its Managing Director.

...1st Respondent in  
W.A.No.1047 of 2012

The Management of Western India Plywood Ltd.,  
Chennai,  
rep. by its Managing Director.

...1st Respondent in  
W.A.No.1048 of 2012

The Presiding Officer,  
Principal Labour Court,  
Chennai.

...2nd Respondent in both WAS

Prayer: Writ Appeals are filed against the common order dated  
8.2.2012 made in WP Nos.19734 and 28428 of 2004.

W.P.No.19734 of 2004 :

Petition filed under Article 226 of the Constitution of India  
praying to issue a Writ of Certiorari calling for the records  
relating to I.D.No.109 of 1996 on the file of the 2<sup>nd</sup> respondent and

the award dated 21.04.2004 passed thereon and to quash the portions of the order refusing the Backwages to the petitioners and the direct the 1st respondent to reinstate the petitioners in service with backwages.

W.P.No.28428 of 2004:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records by the 1st respondent in I.D.No.109/1996.

For petitioners : Mr.R.Margabandhu

For respondents : Mr.V.Karthik for  
M/s.T.S.Gopalan & Co. for R.1  
R2 - Court

COMMON JUDGMENT  
[by V.Ramasubramanian, J.]

These Writ Appeals arise out of the common order passed by the learned single Judge in two Writ Petitions, one by the Management and another by the Workman challenging the Award of the Labour Court.

2.Heard Mr.R.Margabandhu, learned counsel for the appellant-workman and Mr.V.Karthik, learned counsel appearing on behalf of the respondent-Management.

3. The appellant-workman was imposed with a penalty of dismissal from service pursuant to a domestic enquiry. He raised an Industrial Dispute in I.D.No.109 of 1996 on the file of the Principal Labour Court, Chennai. The Labour Court passed a preliminary award on 19.2.2003 holding that the domestic enquiry was fair and proper. There was no challenge to the preliminary award.

4. Thereafter, the Labour Court, upon considering the evidence placed on record, passed an Award dated 21.4.2004, holding the workman guilty of all the charges, but modifying the penalty. In short, the workman was directed to be reinstated without any backwages.

5. Challenging the Award, denying him backwages, the workman filed W.P.No.19734 of 2004. Aggrieved by the Award of reinstatement, the Management filed W.P.No.28428 of 2004.

6. Both the Writ Petitions were disposed of by the learned Judge by a common order dated 8.2.2012. The operative portion of the

common order reads as follows:-

"16. In the result, the writ petition is disposed of in the following terms:-

[1] The preliminary award of the labour court holding that the enquiry was held fairly and properly is confirmed.

[2] The final award of the labour court dated 21.4.2004 is set aside and the matter is remitted back to the Principal Labour Court for fresh disposal in accordance with law after hearing the arguments of both parties.

[3] It is made clear that the finding of the labour court that the workman is guilty of the charges is set aside and, therefore, the workman is at liberty to substantiate his contention that he is not guilty of charges. Similarly, the employer is also at liberty to make his submission to prove the charges before the labour court.

[4] It is further made clear that the parties will not be at liberty to let in additional evidence either oral or documentary inasmuch as the preliminary award has been confirmed in this order.

[5] In any event, the Principal Labour Court, shall pass an award within a period of two months from the date of receipt of a copy of this order.

[6] No costs."

7. As against the said order, the workman has come up with the above Writ Appeals.

8. At the outset, we do not think that the Writ Appeals are maintainable. This is because of the reason that the order of the learned Judge was invited by consent of both sides. This is borne out by paragraph No.14 of the order passed by the learned Judge, which reads as follows:-

"14. The learned counsel on either side would, therefore, submit before this Court that this award may be set aside and the matter may be remitted to the labour court, where both parties will go and again argue the matter in detail so that there may be a fresh award passed by the labour court."

9. In any case, the directions issued in paragraph No.16 of the order passed by the learned Judge are also in favour of the workman, inasmuch as the finding of the Labour Court that the workman is guilty of the charges has been set aside. Therefore, these Writ Appeals stand dismissed. No costs. Connected Miscellaneous Petitions are closed.

Sd/-  
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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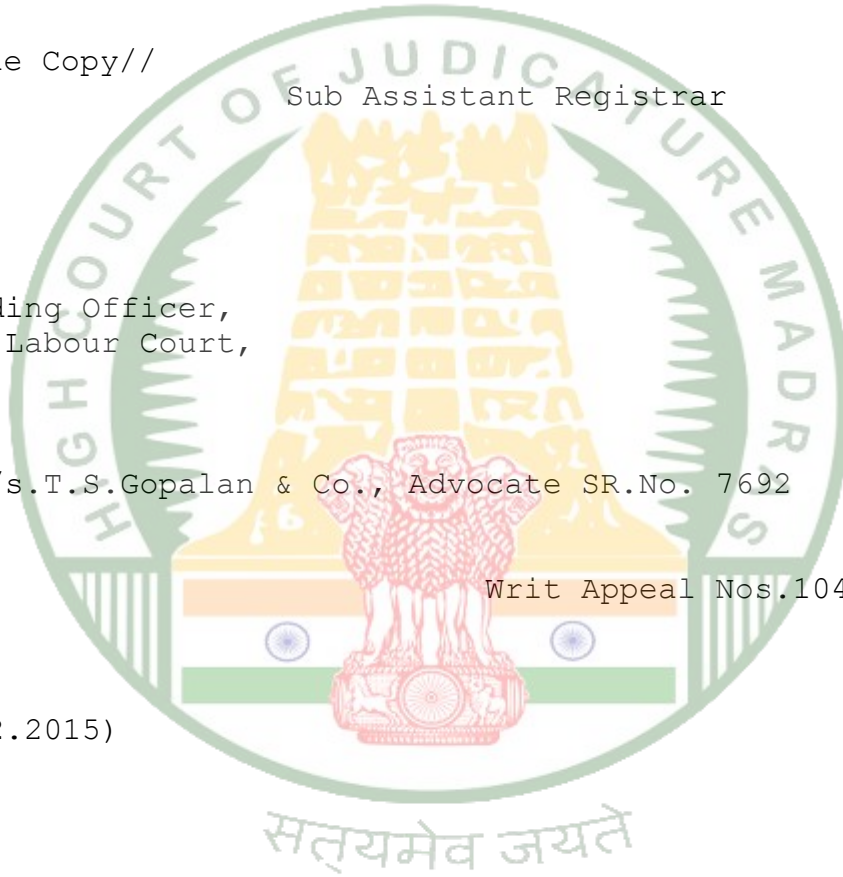
To

The Presiding Officer,  
Principal Labour Court,  
Chennai.

1 CC to M/s.T.S.Gopalan & Co., Advocate SR.No. 7692

Writ Appeal Nos.1047 & 1048 of 2012

VD (CO)  
PSI (24.02.2015)



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