

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.09.2015

CORAM

THE HON'BLE Mr. JUSTICE M.M.SUNDRESH

W.P.Nos.3715, 3716 of 2013, 18526 & 18527 of 2014, Contempt Petition
No.2540 of 2014 & Review Application(W) Nos.238 & 239 of 2015 in
W.P.Nos.3715 and 3716 of 2013, & M.P.Nos.3 & 3 of 2013 & 1 & 1 of 2015

Ambattur Clothing Ltd.,
rep. by its Managing Director,
86-E/2B, Industrial Estate,
Ambattur, Chennai-600 058.

.. Petitioner in

W.P.3715 & 3716/2013,

18526 & 18527/2014 &

Rev.A.Nos.238 & 239/2015

Vs.

1.The Presiding Officer,
First Additional Labour Court,
Chennai.

.. 1st respondent in

W.P.3715 & 3716/2013

18526 & 18527/2014 &

Rev.A.Nos.238 & 239/2015

2.D.Valarmathi

.. 2nd Respondent in

W.P.3715/2013,

18526/2014 &

Rev.A.No.238/2015

3.T.Dhakshayani

.. 2nd Respondent in

W.P.3716/2013 &

18527/2013

Rev.A.No.239/2015

Contempt Petition No.2540 of 2014

T.Dhakshayani

.. Petitioner's

Vs.

Mr.Vijay Metha, Managing Director,
Ambattur Clothing Ltd.,
86-E/2B, Industrial Estate,
Ambattur, Chennai-600 058.

.. Respondent

Writ Petitions in W.P.Nos.3715 & 3716 of 2013 are filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorarified Mandamus to call for the records of the first respondent culminating in the order dated 31.01.2013 in I.A.Nos.208 & 209 of 2012 in I.D.Nos.326 & 327 of 2010 on the file of the First Additional Labour Court, Chennai, quash the same and consequently allow the petitioner-Management to contest the Industrial Disputes on merits upon restoring the dispute on the file of the first respondent.

Writ Petitions in W.P.Nos.18526 & 18527 of 2014 are filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorarified Mandamus to call for the records of the first respondent in I.D.Nos.326 & 327 of 2010, quash its exparte award dated 27.06.2012 and to direct the first respondent to allow the petitioner to contest the cases on merits.

Contempt Petition No. 2540 of 2014 is filed under Section 11 of the Contempt of Courts Act, 1971 (Central Act 70 of 1971) to punish the respondent for committing Contempt of Court by disobeying the order passed by this Court dated 11.04.2014 made in M.P.Nos.2 and 4 of 2013 in W.P.No.3716 of 2013.

Review Application(W) Nos. 238 and 239 of 2015 in W.P.Nos.3715 & 3716 of 2013 are filed under Order 47 Rule 1 read with Section 114 of the Civil Procedure Code to review the orders dated 11.04.2014 passed in M.P.No.4 of 2013 in W.P.No.3715 of 2013 and M.P.No.4 of 2013 in W.P.No.3716 of 2013 respectively.

For Petitioner in .. Mr.S.Ravindran
W.P.Nos.3715 & 3716/2013,
18526 & 18527/2014 & Rev.Apln.238 &239/15
A.SR.No.107725/2014 and
respondent in Cont.P.2540/2014

For 2nd respondent in .. Mr.K.M.Ramesh
W.P.Nos.3715 & 3716/2013
18526 & 18527/2014 & Rev.Apln.238&239/15
and
Petitioner in Cont.P.2540/2014

COMMON ORDER

By consent, the main writ petitions themselves are taken up for final hearing.

2. As the issues involved in all the writ petitions are one and the same, they have been taken up together and disposed of by way of a common order.

3. Admittedly, the second respondent/s in the writ petitions

were employees of the petitioner. Claims have been made in I.D.Nos.326 and 327 of 2010 by the second respondent/s in the writ petitions challenging the orders of dismissal passed and seeking the consequential benefits. As the petitioner-Management did not appear either in person or through counsel, ex-parte awards have been passed on 27.06.2012. Seeking to set aside the said awards, the petitioner has filed applications in I.A.Nos.208 & 209 of 2012. Both the applications have been dismissed on merits as well as on the question of maintainability, since 30 days time had expired after publication of the notification. Challenging the same, the present writ petitions have been filed.

4. The learned counsel appearing for the petitioner submitted that a perusal of the awards would show that no reasons have been assigned. Even assuming that the petitioner was absent, a duty is imposed upon the Labour Court to consider the materials available on record. As the petitioner has challenged the awards passed as well as the rejection of the applications seeking condonation of delay, the writ petitions filed will have to be allowed and liberty may be given to put forth their case. There is no contra material to disallow the petitions seeking condonation of delay.

5. The learned counsel appearing for the second respondent/s in the writ petitions submitted that the dispute has been raised as early as in the year 2010 and for the delay caused by the petitioner, the second respondent/s-employees shall not be made to suffer. The Labour Court, on finding the absence of the petitioner, has rightly passed the awards since the law does not permit the Labour Court to condone the delay after publication of the awards. Hence, no interference is required.

6. A perusal of the awards passed would show that no reasons have been assigned while passing them. The Labour Court was persuaded to pass the awards merely on failure of the petitioner to appear before the Court and on merit. The materials available on record have not been considered except marking them. Thus, this Court is of the view that the awards suffer from infirmity. However, the petitioner has specifically stated that a mistake has been committed by a Lawyer. The delay is also not huge and it is only about 131 days in filing the applications. What the petitioner seeks is an adjudication on merit. Considering the same, this Court is inclined to set aside the awards passed by the first respondent-Labour Court in I.D.Nos.326 and 327 of 2010.

7. However, the second respondent/s-employees are suffering without any payment, despite the fact that they have approached the Labour Court within a reasonable time. Considering the same, while setting aside the awards passed on 27.06.2012 in I.D.Nos.326 and 327 of 2010, as the petitioner is also responsible for the delay to certain extent and taking note of the interest of justice, the petitioner is directed to pay a sum of Rs.10,000/- each to the second

respondent/s in W.P.Nos. 3715 and 3716 of 2013 within a period of four weeks from the date of receipt of a copy of this order, failing which, the awards get restored automatically. Accordingly, I.D.Nos.326 and 327 of 2010 on the file of the First Additional Labour Court, Chennai, are restored and the First Additional Labour Court, Chennai, is directed to dispose of I.D.Nos.326 and 327 of 2010 within a period of four months from the date of receipt of a copy of this order. Accordingly, writ petitions are allowed. No costs.

8. In view of the orders passed in the writ petitions, the contempt petition and the review petitions are closed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

To

The Presiding Officer,
I Additional Labour Court, Chennai

+1cc to Mr.K.M.Ramesh, Advocate Sr.49185
+2cc to Mr.S.Ravindran, Advocate sr.49191

W.P.Nos.3715, 3716 of 2013,
W.P.Nos. 18526 & 18527 of 2014,
Cont. P. No.2540 of 2014 & Review
Appln.(W) Nos.237 & 238 of 2015
in W.P.Nos.3715 & 3716 of 2013

svi [co]
srg 30.09.2015

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