

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.03.2015

CORAM

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

W.P.Nos.19882 & 18442 of 2013  
& M.P.Nos.1 & of 2013 &  
M.P.No.1 of 2014 in  
W.P.No.18442 of 2013

The Management of Ramakrishna Mission  
Saaradha Vidhyalaya Girls Higher  
Secondary School,  
No.134, Usman Road,  
T.Nagar, Chennai 600 017.  
rep. by its Secretary  
Dr.Miss. Suseela Kumari Vyas

...Petitioner  
in both the writ petitions

Versus

1. Saratha

2. The Presiding Officer,  
II Additional Labour Court,  
Chennai 600 104.

...Respondents in both the writ petitions

Prayer in both the writ petitions :- Writ Petitions are filed under Article 226 of the Constitution of India for the issuance of a writ of Certiorarified mandamus calling for the records of the second respondent's impugned order dated 28.04.2009 and 11.07.2012 made in I.D.No. 246/2008 and I.A.No.132 of 2009 in I.D.No.246 of 2008 and quash the same and direct the 2nd respondent / Labour Court to decide I.A.No.133/2009.

For Petitioner in both  
the writ petitions

: Mr.S.Tamizharasi

For Respondent- 1

: Mr.S.T.Vardarajulu

For Respondent-2

: Court

## COMMON ORDER

The Management has filed the above writ petitions challenging the order passed in I.A.No.132 of 2000 in I.D.No.246 of 2008 against the award made in I.D.No.246 of 2008.

2. According to the 1<sup>st</sup> respondent/employee, she joined as a Khalasi-cum-sweeper in April 1970 in the respondent school and the work allotted to her was to provide drinking water to the teachers and students with a condition that she has to be available in the school upto the closing of the school on every day. According to her, except herself, the other similarly placed persons are getting a sum of Rs.3,500/- per month as salary whereas she was paid only Rs.800/-per month. She raised the issue about disparity and demanded the Management to pay the correct salary. However, she was sent out of the school and was dismissed from 29.1.2008 and therefore, she raised an industrial dispute in I.D.No.246 of 2008 before the II Additional Labour Court, Chennai and on 28.04.2009, the Labour Court ordered reinstatement of service with continuity of service, backwages and other attendant benefits. Since the award was passed ex-parte, the Management filed an application in I.A.No.132 of 2009 in I.D.No.246 of 2008 to condone the delay of 245 days in condoning the petitioner to set aside the ex-parte. By order dated 11.07.2012, the Labour Court dismissed the application in I.A.No.132 of 2009. Now the 1<sup>st</sup> respondent is aged more than 60 years. Therefore, she cannot get reinstatement. Challenging the order passed in I.A.No.132 of 2009 in I.D.No.246 of 2008, the Management has filed the above two writ petitions.

3. While admitting the writ petitions, this Court by order dated 23.07.2013 granted an order of interim stay on condition that the writ petitioner Management deposits a sum of Rs.2,00,000/- to the credit of C.P.No.342 of 2012 which was filed by the employee claiming difference in wages.

4. Learned counsel on either side submitted that pursuant to the conditional order passed on 23.07.2013, the Management had deposited the said sum of Rs.2 lakhs before the Labour Court.

5. On a perusal of the affidavit filed by the Management in I.A.No.132 of 2009, it is clear that the petitioner/Management has satisfactorily explained the reasons for the delay. Further the Management has stated that they have got a very good case on merits in the Industrial Dispute before the Labour Court. Since the Management has satisfactorily explained the reasons for the delay, I am of the view that the Labour Court

should have allowed the application and set aside the ex-parte award passed in I.D.No.246 of 2008.

6. Learned counsel for the 1<sup>st</sup> respondent/employee also fairly submitted that the Lower Court can be directed to dispose of the Industrial Dispute on merits within a stipulated time. Further, learned counsel also submitted that since the first respondent is more than 60 years she may be permitted to withdraw a portion of the amount deposited by the petitioner/Management.

7. Having regard to the submissions made by the learned counsel on either side, the order passed in I.A.No.132 of 2009 in I.D.No.246 of 2008 dated 11.07.2012 and award passed in I.D.No.246 of 2008 are set aside and the writ petitions stands allowed. The first respondent/employee is permitted to withdraw a sum of Rs.25,000/- from the amount deposited by the Management before the Labour Court on production of a copy of this order. Labour Court is directed to deposit the balance amount of Rs.1,75,000/- in Indian Bank, High Court Branch, Chennai in fixed deposit initially for a period of one year. The Labour Court is directed to dispose of the industrial dispute in I.D.No.246 of 2008 on merits within a period of three months from the date of receipt of copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

The Presiding Officer,  
II Additional Labour Court,  
Chennai 600 104.

1 CC to Mr.S.Tamizharasi, Advocate SR.No. 15825

2 CCs to to Mr.S.T.Vardarajulu, Advocate SR.No. 15733

W.P.Nos.19882 & 18442 of 2013  
and connected MPs.

MSM (CO)  
PSI (27.03.2015)