

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20-04-2016

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

WRIT PETITION No.23950 of 2011

and

M.P.No.1 of 2011

Carborundum Universal Limited
Thiruvottriyur High Road
Chennai 19
Rep. by its Officer H.R.Department
M.Arumugam .. Petitioner

vs.

1.The Presiding Officer
Principal Labour Court
Chennai.

2.M.Nithyanandham ... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a writ of certiorari calling for the records on the file of the first respondent pertaining to the impugned order dated 30.9.2011, passed in I.A.No.259 of 2011 in C.P.No.29/1994, C.P.No.845/2002 and C.P.No.566/2002, and quashing the same.

For Petitioner :Mr.S.Mohan

For Respondents:Mr.M.Nithyanandham
Party-in-Person

ORDER

The facts narrated in brief, necessary for the disposal of this writ petition, are as follows:-

(a) The second respondent, who is appearing as party-in-person, was initially recruited as a Probationer, vide order dated 30.12.1975, with effect from 2.1.1976, and on account of his non-satisfactory performance and also for his unauthorized absence from duty, disciplinary proceedings were initiated in the form of charge sheet, dated 6.4.1987, and after enquiry,

he was terminated from service vide order dated 27.7.1987.

(b) The second respondent raised an industrial dispute, which was taken on file in I.D.No.86/1987, by the I Additional Labour Court, Chennai, and pendency of the same, took out numerous petitions, which include three claim petitions, under Section 33(c)(2) of the Industrial Act, 1947, claiming a total sum of Rs.1,36,965/- under various heads. In addition to that, the second respondent also filed C.P.No.566 of 2002 claiming a sum of Rs.2,900/- towards additional allowance, and C.P.No.845/2002 claiming certain amounts towards educational loan, one time payment and interest, totalling to a sum of Rs.5,359/-. The writ petitioner-management filed counter opposing the said petitions.

(c) The petitioner made a challenge to the order of termination by filing I.D.No.96/1988, which came to be dismissed, and the review application filed by the second respondent-workman, also ended in dismissal.

(d) The Labour Court posted all the above said claim petitions for enquiry and it was closed on 12.1.2004, in the light of the earlier orders, and aggrieved by the same, the petitioner-management filed W.P.No.3402/2004. The said writ petition was disposed of by this Court on 19.3.2004, directing the writ petitioner-management to deposit a sum of Rs.2.75 lakhs, with a further direction that the entire proceedings should be expeditiously completed within a period of six months, after affording reasonable opportunity to both parties. Accordingly, the claim petitions were taken up by the Principal Labour Court, Chennai and however, the Counsel appearing for the management, did not appear and the writ petitioner-management was set ex-parte and the matter was posted on 30.4.2004, for recording ex-parte evidence. Necessary applications were also filed for setting aside the ex-parte order and ultimately, it was set aside.

(e) The sum of Rs.2.75 lakhs has already been deposited to the credit of C.P.Nos.29/1994, 845/2002 and 566/2002, on the file of the Principal Labour Court, Chennai and it was in turn, directed to be deposited in a nationalized bank and the second respondent-workman was also permitted to withdraw the accrued interest. The second respondent filed I.A.No.259/2011 under Section 18(1) of the Industrial Disputes Act, 1947, stating among other things, that he is ready to enter into a compromise in the above said claim petitions, and therefore, prayed for appropriate orders.

(f) The first respondent Labour Court vide impugned order dated 30.9.2011, in the said application, has recorded the fact that though the matter has been adjourned for advancing arguments on behalf of the management, they did not appear and therefore, taking into consideration the plea made by the second respondent-workman, has directed the authorized

representative as well as the Managing Director of the writ petitioner to appear before the Court so as to enable it to arrive at a settlement with regard to the deposit of 2.75 lakhs. Challenging the legality of the same, the present writ petition has been filed.

2.It is the submission of the learned Counsel appearing for the petitioner-management, that since the sum of Rs.2.75 lakhs had already been deposited and the second respondent-workman was also permitted to withdraw the accrued interest at periodic intervals, there is no need to summon the Managing Director as well as the authorized representative and he would undertake that the petitioner will fully cooperate with the Labour Court to conclude all the claim petitions pending on it's file.

3.Per contra, the second respondent-workman would submit that the settlement pertains only to the above said three claim petitions and he has also filed another set of three claim petitions claiming difference in minimum wages, etc., and appropriate orders may also be passed directing the first respondent Labour Court to dispose of the said petitions.

4.This Court, after considering the rival submissions, is of the view that the interest of the second respondent-workman has been fully protected, in the light of the fact that the sum of Rs.2.75 lakhs had already been deposited by the writ petitioner-management to the credit of the above said claim petitions, and it was also directed to be deposited in the nationalized bank and the second respondent-workman is also receiving the accrued interest at periodic intervals. Therefore, the impugned order is liable to be set aside.

5.In the result, the writ petition is allowed and the impugned order of the first respondent - Principal Labour Court dated 30.9.2011, is set aside. The Principal Labour Court as well as the I Additional Labour Court before which the claim petitions are pending, are directed to give utmost preference and dispose of the same as expeditiously as possible. It is also open to the writ petitioner-management as well as the second respondent-workman to take out appropriate applications to transfer the pending claim petitions to the file of either the Principal Labour Court or the I Additional Labour Court, Chennai for hearing and disposal together. No costs. Consequently, connected miscellaneous petition is closed.

nsv

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To:

1.The Presiding Officer,
The Principal Labour Court, Chennai.

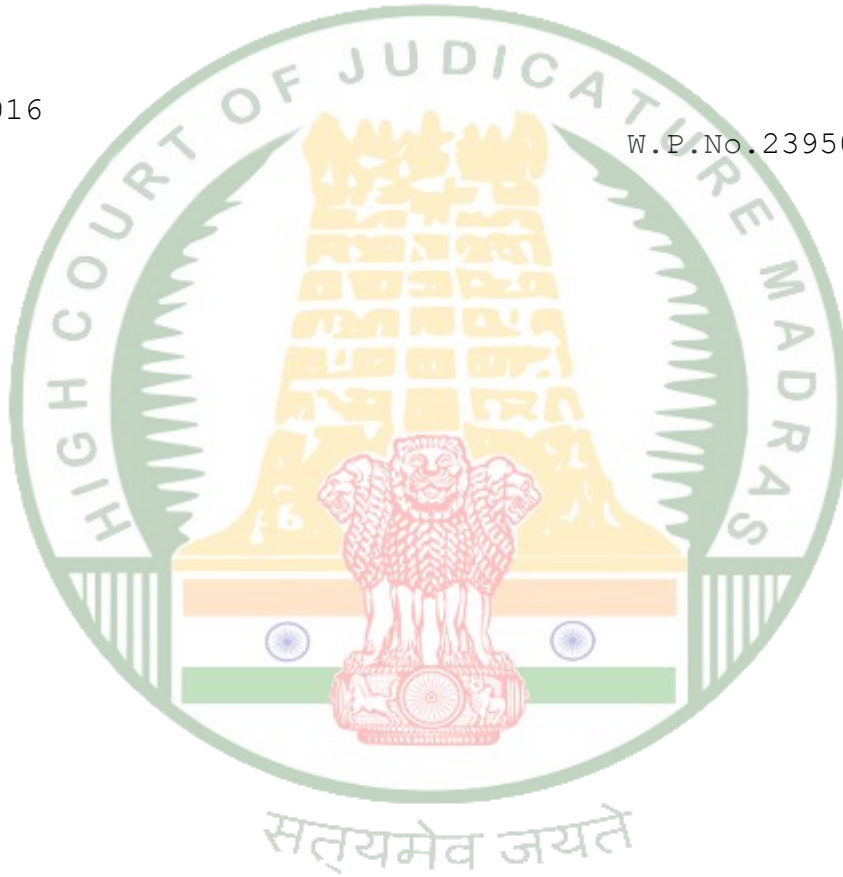
2.The I Additional Labour Court,
Chennai.

+ 1 cc to Mr.S.Mohan, Advocate Sr 24370

+ 1 cc to Mr.M.Nithyanandham, Advocate Sr 24731 (2/5/16)

KR/26/4/2016

W.P.No.23950 of 2011



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