

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2017

CORAM

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

W.P.No.10126 of 2017

and

W.M.P.No.11110 of 2017

The Management,
Nokia India Private Limited,
SEZ PHASE 3 A1, SIPCOT Industrial Park
Sriperumbudur 602 105. ..Petitioner

Vs.

1.The Presiding Officer
2nd Additional Labour Court,
Chennai- 600 104.

2. K. Lakshmi
3. G. Yuvaraj
4. S.Santhosh Kumar
5. M.Lakshmi
6. A. Selva Kumar
7. R.Menaka
8. J.Renuka Devi
9. M.Vanitha
10. M.Menaga
11. V.Sudha
12. S.Suseela
13. A.R. Nanda Kumar
14. H. Hemavathi.
15. K.Kamaraj
16. M.Kalaivani
17. P.Nathiya
18. M.Revathi
19. A. Asha
20. K.Ibrahim
21. V. Indumathi
22. B. Rekha
23. R.Sheela
24. A. Devi
25. V.Vimal Kumar
26. R. Dhanalakshmi
27. P. Mahendran
28. R. Kumari

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29. K. Revathi
30. S. ManiKandan
31. M.Chitra
32. S. Hemalatha
33. S. Buvaneshwari
34. M. Gomathi
35. J. Deepa
36. A. Mary Brihjana
37. M. Kavitha
38. R.Ranjani Devi
39. S. Sasikala
40. D. Suresh Kumar
41. M. Akbar
42. A. Saraswathi
43. J. Yuvaraj
44. P. Nagarani
45. S. Nalini
46. P. Viji
47. C. Raj Kumar
48. S. Mayakannan
49. S.M. Vinayagam
50. A. Mohanapriya
51. V. Olini
52. G. Rani
53. M. Tamil Selvi
54. M. Murthy
55. V. Murugan
56. G. Prabavathi
57. V. Subramani
58. D. Vendal
59. P. Nadhia
60. S. Veeramakali
61. G. Poonkodi
62. S. Jayaprakash
63. T. Nishanthi
64. S. Sangetha

..Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorari to call for the records connected with common impugned order dated 28.03.2017 passed by the first Respondent, II Additional Labour Court Chennai in C.P.No. 183/2015 common order in C.P.Nos. 183 to 245 of 2015 to quash the same.

For Petitioner

.. Mr.Sanjay Mohan for
M/s. S. Ramasubramanian &
Associates

For Respondents

.. Ms.M. Meenatchi for
Mr. P. Anbarasan for R2 to R64
R1- Court

O R D E R

The petitioner has come forward to file this writ petition against the common order passed in the Claim Petition filed Under Section 33 C (2) of the Industrial Disputes Act, seeking computation of the amount payable to Respondents 1 to 64 in C.P.Nos. 183/2015 to 245/2015.

2.The learned counsel appearing for the petitioner would submit that the order passed cannot stand the scrutiny of law. It is passed contrary to the record and undisputed facts available before the Court. Such orders are not to be passed which will have cascading effect not only on the dispensation of Justice but also the lawyers who conduct the cases.

3.The Learned counsel produced a copy of "A" Diary and submitted that the counsel for the petitioner was present all along. The memo filed by respondents 2 to 64 seeking joint trial in all the claim petitions was contested and an order was passed on 27.03.2017. The matter was posted on 28.03.2017. Though the learned counsel appearing for the petitioner was present, the matter was not called by the Court and he was informed that orders would be pronounced at 12.30 p.m. It is submitted that even as per the order passed, the learned counsel for the petitioner was present on 27.03.2017. The petitioner was not set exparte during the enquiry and no cross examination has taken place as the memo for joint trial has been adjudicated after contest only 27.03.2017.

4.The learned counsel for respondents 2 to 64 would submit that the claim petitions are pending for nearly two years. Counter affidavit has been filed only in the year 2016. Therefore the first respondent has passed the order, taking into consideration the relevant materials, Incidentally, on the procedural violation, it is fairly stated that nothing else is required to be stated as against the records speaking for themselves.

5.When the matter came up for admission, learned counsel for the petitioner submitted that a recording has been made as if the petitioner was not present and hence prayed that this records may be called for. Therefore, the Registry was directed to call for the records from the first respondent/Labour Court by deputing an Officer, it was for the reason that such mistakes should not occur in future and the error has to be rectified at the earliest in the interest of both sides. Accordingly, the Registry has produced the records, as directed by this Court on 24.04.2017.

6.This Court perused the records in entirety. From the records, it appears that the matter was initially posted before the Lok Adalat. As the dispute could not be resolved, it was posted before the Court. Vakalat was filed on behalf of the petitioner. Thereafter, counter was filed on 08.06.2016. The following is the extract of "A Diary", which would indicate the progress of the case:

HEARING DATE	EXTRACT OF " A DIARY"
08.06.2016	Counter filed. Enquiry by 12.07.2016
12.07.2016	Enquiry by 01.09.2016
01.09.2016	Enquiry by 08.09.2016
08.09.2016	PW-1 Proof affidavit filed P1 to P marked for cross 05.10.2016
05.10.2016	Cross 25.10.2016
25.10.2016	Enquiry 09.12.2016
09.12.2016	Enquiry by 03.01.2017
03.01.2017	Cross by 24.01.2017
24.01.2017	Call on 03.02.2017
03.02.2017	Cross by 22.02.2017
22.02.2017	Cross by 21.03.2017
21.03.2017	Objection filed for memo. Memo for Joint Trial. Enquiry in memo. P.W1 Cross by 27.03.2017
27.03.2017	Order Pronounced. In result, this memo is allowed. Orders 28.03.2017

7.Ultimately, on 28.03.2017, the order was produced on merits. This Court is at a loss to understand as to how such an order could be passed by the Judicial Officer. The memo was contested by the petitioner and the order was passed on it only on 27.03.2017 permitting joint trial. On the very next day, orders have been pronounced in the main claim petitions noting the absence of the petitioner. Admittedly, when the order was passed on 27.03.2017 in the memo for joint trial in the presence of the learned counsel for the petitioner. That being so, it is not known as to how the final order could be passed on the premise that the petitioner's counsel remained absent. Even in the order, which is challenged in this writ petition, it was indicated that the petitioner was present on 27.03.2017. The

order impugned defies logic, reason, and common sense. . The records also clearly show that the counsel for the petitioner was present on all occasions. It is nothing but a mindless exercise of Judicial power which requires utmost consideration on an appreciation of materials both oral and documentary supported by the arguments of both sides. Judging a dispute requires a serious and conscious application of mind. This Court does not see any application of mind by the first respondent in passing such an order. May be, it is a case of oversight or the pressure of reaching the norms. Such orders would seriously impinge the image of the Judiciary in the eyes of General public.

8. In such view of the matter, the writ petition is allowed and the order passed in C.P. Nos. 183/2015 to 245/2015 is hereby set aside. In view of the observations made above, this Court is not inclined to remit the matter back to very same Officer and therefore, the same is remitted to the file of the IIIrd Additional Labour Court, Chennai. The IIIrd Additional Judge is directed to dispose of C.P.No.183/2015 to 245/2015 within a period of six months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

9. This Court is aware of the law governing the field qua the remarks or observations against a Judicial officer who is not heard. Therefore, they are to be taken in the context of the case. The Narration made would certainly require an examination on the administrative side. Thus, taking into consideration above facts, the Registry is directed to place the order dated 28.03.2017 passed by the Judicial Officer concerned and an order passed in the writ petition before the administrative side for appropriate action.

Sd/-

ASST. REGISTRAR

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SUB ASST. REGISTRAR

To

1. The Presiding Officer
2nd Additional Labour Court,
Chennai- 600 104.

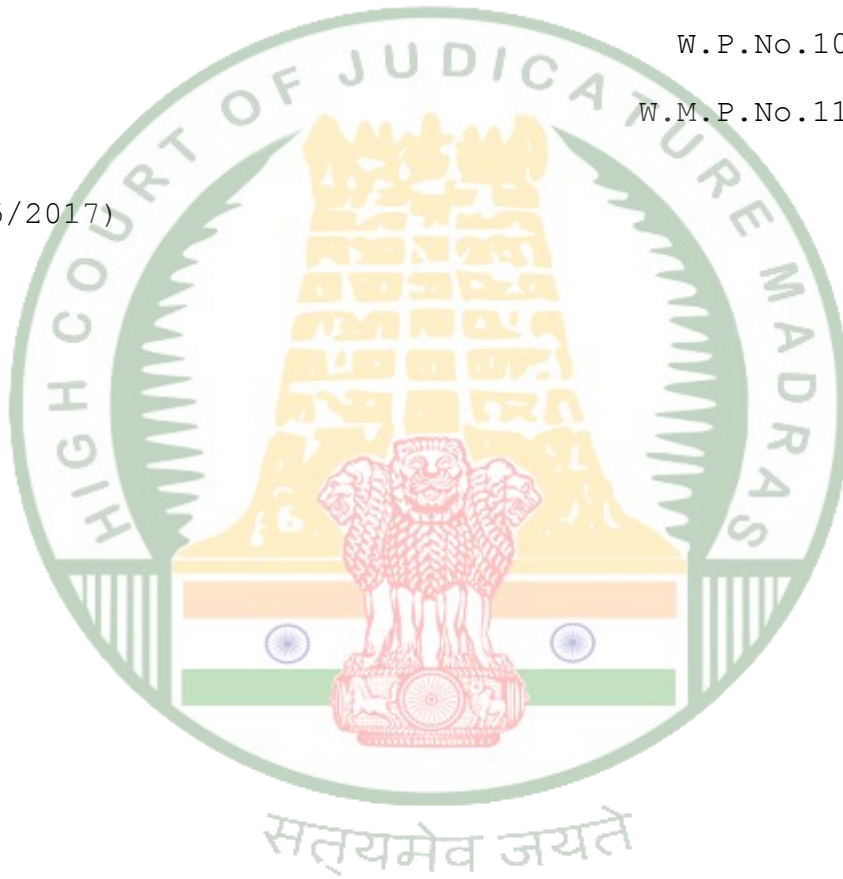
2. The III Additional Judge,
Labour Court, Chennai.

3. The Section Officer
'B' Section High court madras 104.

+1cc Mr.p.anbarasan Advocate SR.NO. 25348
+1cc m/s.sramasubramaniam & asso. SR.NO. 25193

W.P.No.10126 of 2017
and
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VGII (CO)
T.R (17/05/2017)



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