

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2017

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P.No.29152 of 2014

and

M.P.No.1 of 2014 and W.M.P.No.8000 of 2017

M/s.TDI International India (P)
Ltd., rep. by Managing Director,
42, Rani Jhansi Road,
New Delhi - 110 055. ... Petitioner

Vs.

1. The Presiding Officer,
II Additional Labour Court,
High Court Campus,
Chennai - 104.

2. M.Jagdish ... Respondents

Petition filed under Article 226 of The Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records of the first respondent in the impugned order dated 18.10.2011 in I.D.No.31 of 2008 and quash the same and consequently remand back the case to the first respondent for fresh adjudication of dispute by giving an opportunity to the petitioner in accordance with law.

For Petitioner.. Ms.R.Maheswari
for Mr.N.Vijayakumar

For Respondents.. Mr.T.Ram Kumar for R2
R1 - Court

ORDER

The petitioner has approached this Court seeking the following relief:

to issue a writ of certiorarified mandamus to call for the records of the first respondent in the impugned order dated 18.10.2011 in I.D.No.31 of 2008 and quash the same and consequently remand back the case to the first respondent for fresh adjudication of dispute by

giving an opportunity to the petitioner in accordance with law.

2.The petitioner is a company registered under the Companies Act, 1956 and was engaged in the business of outdoor advertisement. The second respondent is the workman employed in one of the branches of the petitioner company. The second respondent was terminated from service, against which, he raised an industrial dispute in I.D.No.31 of 2008 and the same was referred for adjudication before the first respondent. While passing the award, the first respondent has considered all the materials placed on record and found that the termination was invalid. The first respondent has concluded in favour of the workman since no proper materials were placed by the petitioner management against the relief sought for by the workman.

3.Learned counsel appearing for the petitioner management would at the outset contend that the learned counsel appeared for the management before the Labour Court had not effectively presented the case of the management and no evidence was let in on behalf of the management either oral or documentary in establishing their case vis-a-vis the claims of the second respondent/workman herein. In the absence of the materials, the first respondent/Labour Court had passed an Award in favour of the workman. Since the Award was passed without consideration of the materials and the preliminary objections raised by the management, the Labour Court may be directed to revisit the Award by considering the case of the management as against the claim of the workman concerned.

4.When the said submission was made, this Court had enquired as to what compensation is to be paid to the workman if the matter is remitted back to the Labour Court for fresh consideration. At this, learned counsel for the petitioner management would submit that the management is ready and willing to deposit an amount of Rs.2 lakhs to the credit of I.D.No.31 of 2008 before the first respondent and the second respondent/workman may be allowed to withdraw the same. Learned counsel for the second respondent workman would also have no objection for the matter being remanded back to the Labour Court for fresh consideration on the above terms.

5.In view of the above submissions, I.D.No.31 of 2008 is remanded back to the first respondent Labour Court for fresh consideration of the claims as well as the objections of the management. Both the management and the workman are to be given fair opportunities for setting forth their respective cases before the Labour Court. The management is also directed to deposit the amount of Rs.2 lakhs within a period of two weeks from the date of receipt of a copy of this order to the credit of I.D.No.31 of 2008 pending before the first respondent Labour

Court and the second respondent/workman is permitted to withdraw the entire amount of Rs. 2 lakhs immediately thereafter. In case the amount of Rs.2 lakhs is not deposited within the stipulated time, the Award passed by the Labour Court shall stand confirmed and no further adjudication by the first respondent Labour Court can proceed. On withdrawal of the amount of Rs.2 lakhs from the deposit, the second respondent has undertaken to withdraw the execution petition filed by him before the first respondent Labour Court.

6.The first respondent Labour Court is directed to conclude the proceedings and pass fresh Award within a period of six months from the date of remand of I.D.No.31 of 2008 on its file.

7.With these directions, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

mmi

To

The Presiding Officer,
II Additional Labour Court,
High Court Campus,
Chennai - 104.

+1 CC to Mr.T.Ram Kumar, Advocate sr 68217
+1 Cc to Mr.N.Vijayakumar, Advocate sr 67914.

सत्यमेव जयते

W.P.No.29152 of 2014

MG(CO)
SP(13/10/2017)

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