

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :28.06.2017

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. No.28426 of 2003

1.K.Sivasubramaniam

2.S.Ramgopal

.. Petitioners

Vs

1.The Deputy Commissioner
Workmen Compensation
Salem 7.

2.Dhanabakkiam

3.Rama

4.Lakshmi

5.Lakshmi

(R3 to R5 dismissed as per the order by this
Court dated 15.06.2007 in W.P.28426 of 2003)

.. Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India to issue of Writ of Certiorarified Mandamus, to to call for the records on the file of the first respondent in W.C.No.178 of 1999 dated 22.4.2002 and consequently the order in I.A.No.52 of 2002 in W.C.No.178 of 1999 dated 31.12.2002 and quash the proceedings therein as illegal, incompetent, irregular and without jurisdiction and further direct the first respondent to dispose of the Application in W.C.No.178 of 1999 on merits.

For Petitioner : Mr.V.Raghavachari

For Respondents: Mr.A.Zakkir Hussain -R1
Govt. Advocate

No Appearance - R2

O R D E R

The Writ Petitioners are Partners in Dwaraka Calendering Mills at Erode. The present Writ Petition is filed challenging the order passed by the first respondent in W.C.No.178 of 1999 dated 22.4.2002 and the consequential order passed in I.A.No.52 of 2002 in W.C.No.178 of 1999 dated 31.12.2002.

2.The claim of the writ petitioners is that totally nine employees were working in their Partnership Firm and the victim employee was working as daily rated collie in the said Firm. An accident took place in the premises of the writ petitioners' Firm, however, the same was disputed by the Partners and the writ petitioners also disputed the very relationship of the victim with their Partnership Firm, viz. Employer-employee relationship.

3.The learned counsel appearing for the writ petitioners contended that inspite of all those grounds raised in the counter statement filed before the Deputy Commissioner of Labaour, the first respondent has passed the Award granting compensation under the Workmen Compensation Act.

4.Be that as it may, the sole contention raised in this writ petition by the learned counsel for the writ petitioners is that no notice was served on the first writ petitioner, who is one of the partners of the Partnership Firm, nor any notice was served in the name of the Partnership Firm itself. Without issuing any notice either to the writ petitioners or to the Firm, the first respondent proceeded with the enquiry and concluded the same, which amounts to violation of principles of natural justice. Hence, the Award passed by the first respondent is unsustainable and issued behind the back of the writ petitioners. No award can be passed under the Workmen's Compensation Act, without providing opportunities to the parties to the lis concerned. Therefore, an error has crept when no notice was issued to the writ petitioners. On this short ground, the Writ Petition deserves consideration.

5.Since the case relating compensation to the victim who suffered accident, this Court is inclined to direct the first respondent to re-open the case and conduct enquiry by issuing notice to all the parties concerned and conclude the same, within a period of three months from the date of receipt of copy of this order.

6. Accordingly, the Award passed by the first respondent in W.C.No.178 of 1999 dated 22.4.2002 and consequently the order in I.A.No.52 of 2002 in W.C.No.178 of 1999 dated 31.12.2002 are quashed and the Writ Petition stands allowed on the above terms. No costs.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

rpa

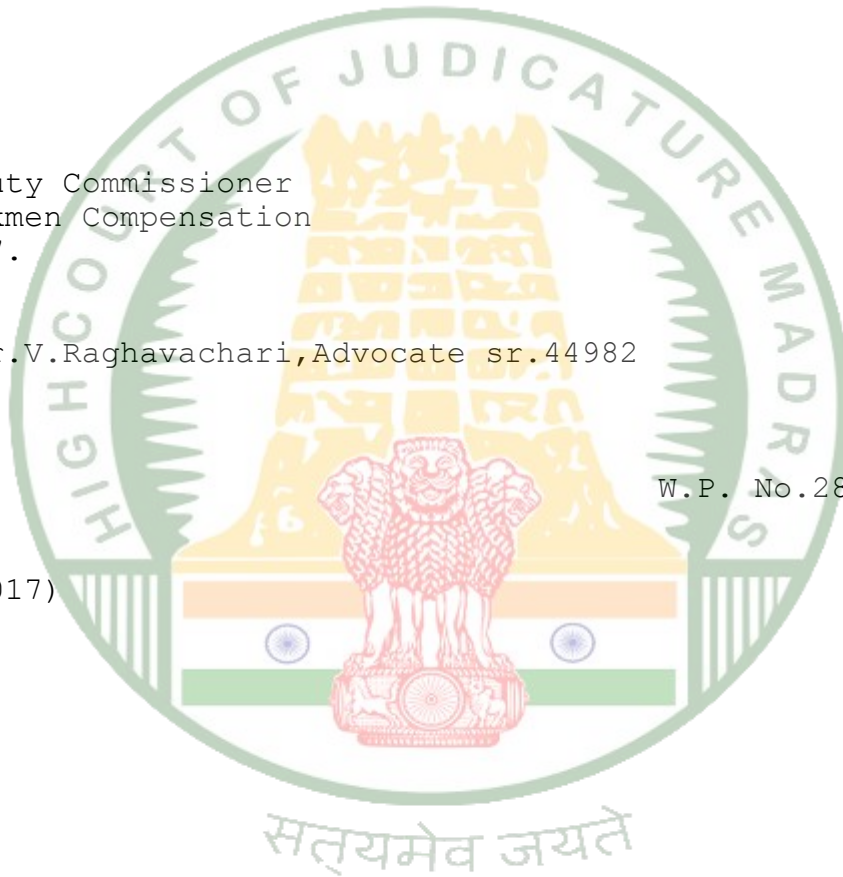
To

1.The Deputy Commissioner
Workmen Compensation
Salem 7.

+1cc to Mr.V.Raghavachari, Advocate sr.44982

W.P. No.28426 of 2003

sr(co)
ss(31/7/2017)



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