

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.09.2018

CORAM:

THE HON'BLE Dr. JUSTICE S.VIMALA

Writ Petition No.22107 of 2004
& WPMP No.26747 of 2004

M/s. Ashok Leyland Ltd., Unit - 1,
SIPCOT Industrial Complex,
Hosur 635 126 ... Petitioner

...vs...

1. Mr. Michael Selvaraj
2. The Deputy Commissioner of Labour,
Salem - 7 ... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorari to call for the records connected with A1/7226/2004 dated 09.07.2004 pending with the second respondent and to quash the same.

For Petitioner : Ms. M.Elavarasi, for,
M/s. Ramasubramaniam & Associates.
For Respondents : No Appearance, for R-1,
Mr. N.Srinivasan, AGP., for R-2

O R D E R

This writ petition has been filed challenging the proceedings issued by the Deputy Commissioner of Labour, Salem, dated 09.07.2004, calling upon the Management to participate in the resolution of the dispute raised by the workman. The management had terminated the services of the first respondent for having assaulted an Officer of the company. The workman raised an industrial dispute in I.D.No.194 of 1986. The Labour Court has ordered reinstatement, but denied backwages. Challenging the reinstatement, the Management filed W.P.No.13626 of 1990. The workman filed writ petition challenging the reinstatement only as a fresh entrant (W.P.No.19531 of 1990). By the common order, the punishment of dismissal was affirmed by this Court. The Writ Appeal filed by the workman was dismissed. The Special Leave Petition filed by the workman was dismissed by the Hon'ble Supreme Court. Later, the workman sought employment based on the settlement dated 26.05.1987 entered into between the Management and the Union. The Management sent a reply dated

29.06.2004 informing the workman that the termination of the services has been upheld by the Hon'ble Supreme Court and the alleged settlement did not apply to him.

2. A perusal of the records reveal that the name of this workman also find a place in the 12 (3) settlement entered into between the Management and the Union. It is claimed by the workman that based on this settlement I.D.No.45 of 1983 was filed by him and the award was passed on 21.02.1986. After the Labour Court passing the award, there is no jurisdiction for the Deputy Commissioner of Labour to look into the matter. The remedy open to the workman is to file the Execution Petition.

3. Under the circumstances, the proceedings issued by the second respondent, dated 09.07.2004, is quashed. This writ petition is allowed. No costs. Consequently, the connected WPMP is closed.

Sd/-
Assistant Registrar (CS-IV)

//True copy//

Sub Assistant Registrar

srk

To

1. The Deputy Commissioner of Labour,
Salem - 7

+1cc to M/s.S.Ramasubramaniam & Associates, Advocate SR.No.66329

+1cc to Government Pleader SR.No.67099

सत्यमेव जयते

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GMV (25/10/2018)

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