

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2018

CORAM:

THE HON'BLE DR.JUSTICE S.VIMALA

W.P.No.31560 of 2004
and
W.P.M.P.No.38243 of 2004

The Management,
Hamsavani Spinners (P) Ltd.,
Karamadai,
Coimbatore District,
Rep. by its Managing Director. Petitioner

Vs.

1. The Labour Court,
Coimbatore.

2. Lakshmanan ... Respondents

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 made in I.A.Nos.571 and 572 of 2004 in I.D.No.388 of 1998 dated 21.09.2004 on the file of the 1st respondent and to quash the same.

For Petitioner : Mr.S.Silambanan,
Senior Counsel for Mr.N.Umapathi

For Respondents : Court - R1
Mr.R.Sunil Kumar for R2

O R D E R

The second respondent herein was employed in the petitioner Mill. It is the allegation of the Management that the workman/second respondent was involved in assaulting the Managing Director of the Company and thus, he committed serious misconduct.

2. Therefore, the petitioner Company issued a show cause notice dated 12.07.1997, calling for explanation. Since no explanation was submitted by the workman, an enquiry was ordered. The workman did not participate in the enquiry, in spite of opportunities given and the enquiry was completed and the Enquiry Officer submitted a report holding that the charges levelled against the workman were proved beyond reasonable

doubt.

3. On the basis of the said report, further notice dated 18.11.1997 was issued to the petitioner. However, no explanation was given by the workman. Therefore, the petitioner Management imposed the punishment of dismissal from service vide order dated 21.02.1998.

4. Aggrieved by the said dismissal order, the workman/second respondent herein raised an Industrial Dispute in I.D.No.388 of 1998 before the Labour Court, Coimbatore. Pending I.D.No.388 of 1998 before the Labour Court, Applications in I.A.Nos.571 and 572 of 2004 had been filed by the workman.

5. In I.A.No.572 of 2004, the workman claimed that the Management and Enquiry Officer had completed the enquiry proceeding by setting him ex parte on 23.09.1997 without giving him an opportunity to defend himself. Hence, the prayer was made seeking permission of the Court to allow him to mark certain documents before the Court.

6. In Application No.571 of 2004, a request has been made seeking to summon the Enquiry Officer to appear before the Court and to clarify certain doubts in the enquiry proceedings conducted by him.

7. The Labour Court, after hearing both sides, allowed I.A.No.571 of 2004 permitting the petitioner to examine the Enquiry Officer. The Court further held (in I.A.No.572 of 2004) that the Court will decide on the admissibility of the documents if those documents are sought to be marked while the enquiry officer is to be examined before the Court. The above orders are under challenge by the Management.

8. The learned counsel appearing for the Management submitted that the order passed by the Labour Court is per se unsustainable, as it is for the Court to decide on the admissibility of the documents on its production and the marking of the documents through the Enquiry Officer cannot furnish any ground for the admissibility of the document and therefore, the impugned orders are liable to be set aside.

9. The learned counsel for the workman submitted that this Court may direct the Labour Court to consider the admissibility and the scope of the documents, based on the relevancy of the documents.

10. This Court considered the materials available on record and is of the considered view that the request as made by the workman is reasonable.

11. It is trite that the admissibility of the documents should be decided independently before deciding on the examination of the Enquiry Officer. The approach of the Labour Court is anti-clockwise instead of being clockwise.

12. In such circumstances, this Writ Petition is disposed of, directing the Labour Court to consider the nature of documents that is produced by the petitioner and based on the admissibility and relevancy of the documents, may decide on the marking of documents. No costs. Consequently, the connected MP is closed.

Sd/-
Assistant Registrar (CCC)

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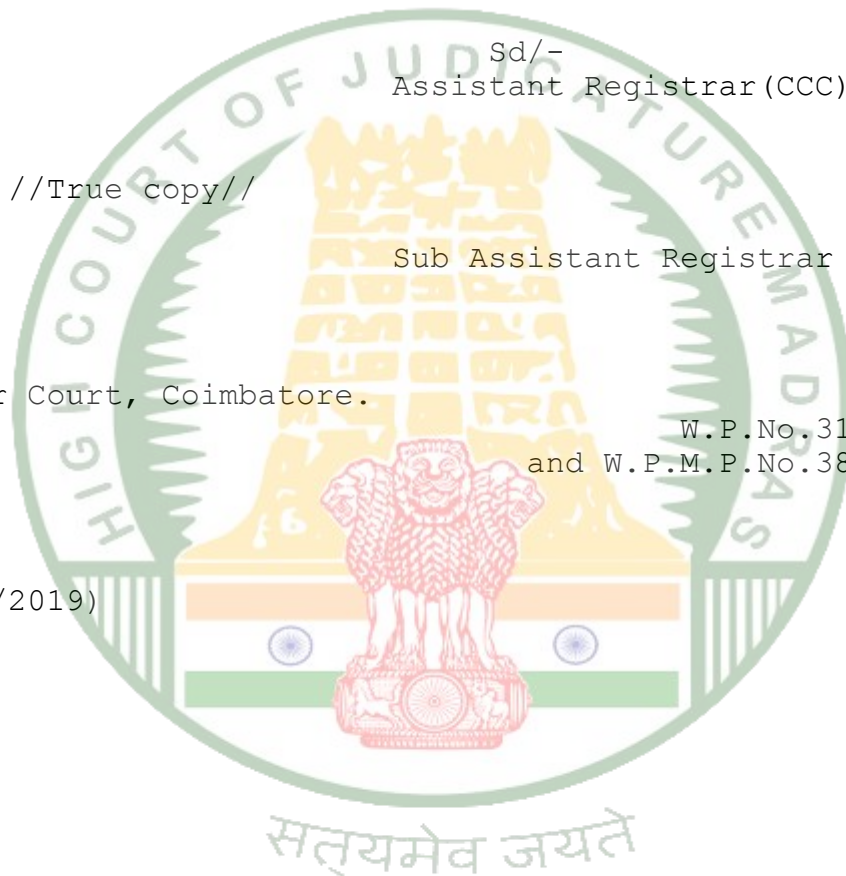
Sub Assistant Registrar

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The Labour Court, Coimbatore.

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PM (CO)
GMY (13/02/2019)



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