

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2018

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.8066 of 2011

A.N.Sundaresan

.. Petitioner

vs

1.Government of Tamilnadu,
Rep.by its Secretary,
Labour and Employment Department,
Fort St.George, Chennai.

2.The Labour Officer-I,
Office of the Labour Officer,
Krishnanagar, Vellore.

3.The Management of
M/s.Indhira Industries,
Rep.by its Managing Director,
K.Ponnuswamy
No.6, Sipcot, Ranipet,
Vellore District.

.. Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus directing the second respondent to enquire the petitioner's complaint dated 01.03.2010 under Section 29 of the I.D.Act and direct the respondents 1 and 2 to prosecute and take criminal action against the 3rd respondent and the officials who were/are responsible for the non-implementation and breach of the award dated 16.06.2009 in I.D.No.157/2008 passed by the Principal Labour Court, Vellore.

For Petitioner : Mr.V.Ajoy Khose

For R1 and R2 : Mr.A.Zahir Hussain
Government Advocate.

For R3 : Mr.T.P.Prabakaran

O R D E R

The petitioner has filed this Writ Petition seeking a direction to the second respondent to enquire his complaint, dated 01.03.2010 under Section 29 of the I.D.Act and direct the respondents 1 and 2 to prosecute and take criminal action against the 3rd respondent and the officials who are responsible for the non-implementation and breach of the award, dated 16.06.2009 in I.D.No.157/2008 passed by the Principal Labour Court, Vellore.

2. According to the petitioner, he was originally working as a Welder under the third respondent-Management on contract basis from the year 2001. Thereafter, the petitioner was appointed as direct workman from April, 2003. The third respondent paid the wages on daily rated basis at the rate of Rs.180/- per day and he was paid the same once in a month. The petitioner had completed more than 480 days of his service and also he was not extended with any benefits like permanent workmen. Further, the third respondent terminated the petitioner from his service without any notice. Thereafter, the petitioner gave a letter dated 09.04.2008 for reinstatement. But the third respondent has not given any reply to the petitioner. Hence, the petitioner filed I.D.O.P.No.157 of 2008 before the Principal Labour Court, Vellore. Though the 3rd respondent were served, they have not chosen to appear either in person or through their counsel before the Court. Hence, the 3rd respondent was set exparte. The Labour Court has passed an award, dated 16.06.2009 directing the third respondent to reinstate the petitioner from his service. However, the Labour Court is not inclined to grant the benefit of continuity of service, back wages and other attendant benefits to the petitioner.

3. It is further stated that the petitioner gave a complaint dated 01.03.2010 under Section 29 of the I.D.Act before the second respondent. The said complaint was received and the proceedings initiated against the third respondent. But the third respondent has not implemented the award. Hence, the petitioner has come forward with the present writ petition.

4. The learned counsel for the petitioner would submit that the Management/third respondent appeared before the Authority and submitted that they are ready and willing to offer the same employment to the petitioner. Hence, he prays for allowing this writ petition.

5. The third respondent has filed a counter affidavit. In para-8 of the counter affidavit, it has been stated as follows:

"8. The above facts clearly reveal that the management is always willing to implement the award dated 11.06.2009 and already offered the same employment to the writ petitioner but the writ petitioner showed high handedness and refused the offer of the management to provide him employment by demanding higher job with higher salary which is unacceptable and legal unsustainable. Hence, the writ petition is totally misconceived and liable to be dismissed."

6. The learned counsel for the third respondent would submit that the third respondent has to comply with the award passed by the Labour Court for providing a job with the third respondent/Management. If any grievance, the petitioner is to seek remedy before the concerned forum for non-implementation of the award.

7. The learned counsel for the petitioner would submit that if the third respondent has complied with the award, the petitioner will agree to join under the third respondent-management.

8. According to the learned counsel for the third respondent, the petitioner refused to accept the said employment and insisted that he should be employed in the higher post and demanded a salary of Rs.10,000/- per month.

9. The learned counsel for the third respondent undertakes that if the petitioner reporting for duty, the third respondent will pay daily current wages applicable to the daily rated workers.

10. Considering the submission made by the leaned counsel for both sides, this writ petition is disposed of. However, liberty is given to the petitioner, if any grievance, he can approach the appropriate forum, under the provisions of law. No cost.

Sd/-

Assistant Registrar(CS vI)

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Sub Assistant Registrar

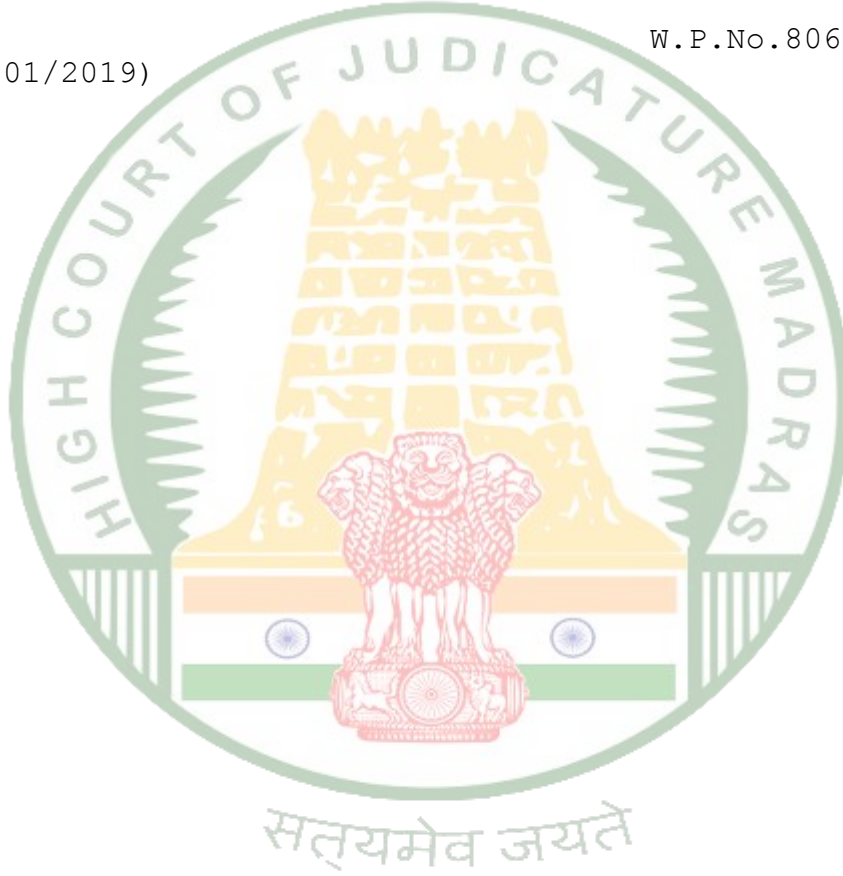
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To

- 1.The Secretary,
Labour and Employment Department,
Fort St.George, Chennai.
- 2.The Labour Officer-I,
Office of the Labour Officer,
Krishnanagar, Vellore.

ASK (02/01/2019)

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