

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.3.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

W.A.No.544 of 2018
and
C.M.P.No.5300 of 2018

1. E.Suganthi
2. K.Anjali
3. S.Sathiyavathi
4. S.Gowri
5. E.Anbarasi
6. E.Mahalakshmi
7. S.Muthuvalli
8. C.Kuppu
9. S.Ellammal
10. K.Mangai
11. P.Ellammal
12. K.Parasakthi

Appellants

Versus

1. M/s.Premier Distilleries (P) Ltd.,
rep. by its Manager Mr.K.Sundaram,
R.S.No.62/8 Madugarai Road, Mangalam,
Pondicherry.
2. The Labour Court,
Puducherry.

Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 12.10.2017 passed in W.P.No.14155 of 2010 on the file of this court.

Prayer in WP.NO.14155 of 2010: This Writ petition filed U/Article 226 of the constitution of India, praying for issuance of a writ of certiorari, calling for the records of the 1st respondent in ID.No.2 of 2006, quash the impugned proceedings dt.08.03.2010.

For appellants : Mr.Sai Krishnan for
M/s.T.Sasi Krishnan

For R1 : Mr.Fr.Xavier Arul Raj, Senior Counsel
Mr.N.Murali

JUDGMENT

(Judgment of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel appearing for the parties for some time.

2. It appears that as against some misconduct of illegal strike, enquiry was held and after enquiry as per the finding of the enquiry officer, the appellants were dismissed by the disciplinary authority. As against the same, the appellants had moved the Labour Court and the Labour Court, having found in favour of the workmen, ordered for reinstatement. However, as against such order, the Management filed the writ petition and the learned Single Judge, having found that the only grey area is non-provision of opportunity to the workmen to cross examine the witness of the management, set aside the award passed by the Labour Court and remitted the matter to the management for conducting the enquiry by providing opportunity to the workers to cross examine the management witnesses. But, the words 'de novo' enquiry used by the learned Single Judge in the operative portion of the order is strongly emphasised by the learned counsel appearing for the appellants to contend that as per the ratio laid down in a Full Bench decision of the Supreme Court in KARNATAKA STATE ROAD TRANSPORT CORPORATION v. LAKSHMI DEVAMMA AND ANOTHER (2001 (5) SCC 433), when there is no such prayer neither by the management nor it is permissible, the order of the learned Single Judge is erroneous.

3. We have perused the order passed by the learned Single Judge and the materials placed before us. We find that the learned Single Judge, having gone through the order of the Labour Court, found that the management witnesses had been examined and also witnesses on the side of the workmen were examined, but the learned Single Judge had found that the only grey area is that opportunity was not given to the workers to cross-examination the management witnesses and therefore, to have a full-fledged enquiry and to get a finding on merits, thought it fit to remit the matter to the management and accordingly, has remitted the matter to the management with a direction to the management to give a chance to the workers to cross examine the management witnesses by supplying all the materials available with the management.

4. In our view, it is not at all a case of de novo enquiry for the following reasons. On the writ petition filed by the management challenging the order passed by the Tribunal holding that the enquiry was vitiated, the learned Single Judge, having gone through the order passed by the Tribunal and having found that the only grey area is that the employees were not provided with any opportunity to cross-examine the management witnesses and such aspect alone cannot be a ground to conclude that the entire proceedings is vitiated and exercising the power vested

under Article 226 of the Constitution of India, has remitted the matter to the Management for conducting the enquiry with opportunity to the employees to cross-examine the management witnesses. But, for the words used in the operative portion of the order viz., 'de novo enquiry' the tenor of the order establishes that the learned Single Judge thought it fit to remit the matter only for the purpose of clearing the grey area by giving opportunity to the employees to cross-examine the management witnesses and thereby to have a finding based on a full-fledged enquiry.

5. The Full Bench decision of the Supreme Court relied upon by the learned counsel appearing for the appellants relates to the claim of the Management to lead more evidence in the disciplinary proceedings. But, in the case on hand, it is not at the instance of the Management, but, only the Court, on its own volition, decided to remit the matter to the Management to give opportunity to the workmen so as to get a proper finding without any flaws. Therefore, it cannot be held to be illegal or erroneous. We do not find any reason to interfere with the order passed by the learned Single Judge. However, since, it is brought to our notice that pursuant to the order passed by the learned Single Judge, already three witnesses are said to have been cross-examined, we request the authority to conclude the enquiry at the earliest within two months from the date of receipt of copy of this judgment so that the interest of the workmen can be taken care.

6. In fine, the writ appeal is dismissed. No costs. The connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

ssk.

To:

1. M/s.Premier Distilleries (P) Ltd.,
rep. by its Manager Mr.K.Sundaram,
R.S.No.62/8 Madugarai Road, Mangalam,
Pondicherry.
2. The Labour Court, Puducherry.
+lcc to M/s.N.Murali, Advocate Sr.No.20157
+lcc to M/s.T.Saikrishnan, Advocate Sr.No.19563

RJI (CO)

EU:13.4.2018

W.A.No.544 of 2018