

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2018

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.A.No.840 of 2018
and
C.M.P.No.7352 of 2018

The Management of
K-2072 Annur Primary Agriculture
Co-operative Society,
rep.by its President, Annur,
Coimbatore District. ... Appellant/Petitioner

-vs-

1.The Presiding Officer,
Labour Court, Coimbatore.

2.Radhamani ... Respondents/Respondents

Appeal filed under Clause 15 of Letters Patent, against the
order passed by this Court in W.P.No.33006 of 2017 dated
19.12.2017.

W.P.No.33006 of 2017: Petition under Article 226 of the
Constitution of India praying this court to Call for the records
relating to the order dated 16/05/2017 made in I.D.No.180 of
2010 on the file of the first respondent and quash the same
consequently remand back to 1st respondent to conduct fresh
enquiry after giving opportunity to the petitioner.

For Appellant :: Mr.L.P.Shanmugasundaram,
Spl.GP (Co-operatives)

R1 :: Labour Court)

For Respondents 2:: Mr.I.Abrar Md.Abdullah for R2

JUDGMENT
(Delivered by HULUVADI G.RAMESH, J.)

The second respondent herein raised an industrial dispute in I.D.No.180 of 2010 under Section 2A(2) of the Industrial Disputes Act, 1947 to set aside the dismissal order dated 17.07.2009 passed by the Special Officer of the appellant-Society, with a direction to the Management to reinstate her into service with continuity of service and other benefits, before the first respondent-Labour Court. The first respondent Labour Court passed an ex-parte award on 16.05.2017. The reason stated for passing such ex-parte order is that the Management has not produced the relevant documents on the strength of the proof affidavit filed by the employee. Thereafter, I.A.No.801 of 2017 was filed by the appellant-Management seeking to restore the main ID, but the same was dismissed on the ground that the award becomes enforceable under Section 17-A of the Industrial Disputes Act, on the expiry of 30 days from the date of publication in the notice board of the Labour Court Office and the Labour Court becomes functus officio and lacks jurisdiction to entertain the dispute.

2. Thereafter, W.P.No.33006 of 2017 was filed by the appellant herein to quash the order dated 16.05.2017 passed in I.D.No.180 of 2010 by the Presiding Officer, Labour Court, Coimbatore, and the same was dismissed by this Court, by order dated 19.12.2017. Challenging the said order, the present writ appeal is filed.

3. The learned Special Government Pleader appearing for the appellant has submitted that there was no delay as such and the matter has to be adjudicated on merits after affording opportunity to both sides to produce material evidences. He relied upon the judgment of the Hon'ble Supreme Court in Radhakrishna Mani Tripathi v. L.H.Patel and another, reported in (2009) 2 SCC 81, and submitted that Industrial Courts could proceed ex-parte in the matter only in case a party to the proceeding failed to attend or be represented without showing sufficient cause.

4. Heard the learned counsel on either side and perused the materials available on record.

5. Considering the facts and circumstances of the case, this Court is of the considered view that the matter needs to be adjudicated by appreciating proper material evidence. Further, opportunity has to be granted to the parties to put forth their contentions. In such view of the matter, the impugned order passed by the learned single Judge in the writ petition, as well as the ex-parte order dated 16.05.2017 passed by the first

respondent Labour Court are set aside and the matter is remitted to the first respondent Labour Court for disposal of the same in accordance with law. The parties are directed to appear before the Labour Court on 25.06.2018 and they are at liberty to put forth all their contentions before the Labour Court.

6.The writ appeal is disposed of accordingly. No costs. Consequently the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CO)

//True copy//

Sub Assistant Registrar

KM

To

The Presiding Officer,
Labour Court, Coimbatore.

Copy TO

The Section Officer,
ER Section, High Court,
Madras-104.

+1cc to Mr.L.P.Shanmugasundaram, Advocate SR.No.36530

W.A.No.840 of 2018
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VGI (CO)
GN(19/06/2018)

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