

IN THE HIGH Court OF JUDICATURE AT MADRAS

DATED :11.06.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.25762 of 2014

and

M.P.No.2 of 2014

The Secretary,
Tamil Nadu Private Professional
Colleges Association Health Sciences,
Prasanna Enclave 1st floor,
Bharathi Avenue, IIInd Street,
Kotturpuram, Chennai - 600 085.

...Petitioner

Vs.

1.P.Ganesh

2.The Presiding Officer
II Additional Labour Court,
Chennai - 600 104.

... Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India to issue of Writ of Certiorari, calling for the records in I.D.No.101 of 2011 dated 25.04.2014, issued by the 2nd respondent and quash the same.

For Petitioner : Mr.A.S.Baalaji

For R1 : Mr.K.Rangesh
for M/s.Jayaraman & Associates

For R2 : Labour Court

O R D E R

The Award passed by II Additional Labour Court in I.D.No.101 of 2011 dated 25.04.2014 is under challenge in this writ petition.

2.The points to be considered in nutshell for deciding the present writ petition is that the Labour Court passed an Ex-parte Award.

3.The learned Counsel for the petitioner made a submission that the learned counsel engaged by the writ petitioner had not appeared before the Labour Court at the time of hearing. Thus, the Labour Court was constrained to pass an Ex-parte order.

4.The learned Counsel appearing on behalf of the first respondent/ workmen opposed the contention by stating that the writ petitioner ought to have filed the petition before the Labour Court for setting aside the Ex-parte order. Contrarily, they have moved the High Court by way of a writ petition. Thus, the writ petition is liable to be rejected.

5.This Court is of an opinion that the Labour Court passed the Ex-parte Award on account of the non appearance of the learned counsel engage by the writ petitioner. Because of the mistake of the learned counsel, a litigant should not suffer. Admittedly, the writ petitioner had engaged an Advocate before the Labour Court for defending the case of the management. Thus, the mistake committed by the learned counsel should not cause any injury to the claim of the litigants before the Courts. This being the principles to be followed, this Court is of an opinion that the issues raised are to be adjudicated in all respects before the Labour Court and by providing opportunity to all the parties concerned.

6.Accordingly, the Award passed by the II Additional Labour Court, Chennai in I.D.No.101 of 2011 dated 25.04.2014 is quashed. The Labour Court is directed to take the I.D on file and adjudicate the same in all respects by providing opportunity to all the parties concerned and decide the same as early as possible preferably within a period of six months from the date of receipt of a copy of this order.

7.Accordingly, the writ petition stands allowed. Consequently, the connected Miscellaneous Petition is closed. However, there shall be no order as to costs.

s/d-

Assistant Registrar(CS VII)

True Copy

Sub-Assistant Registrar

ggi

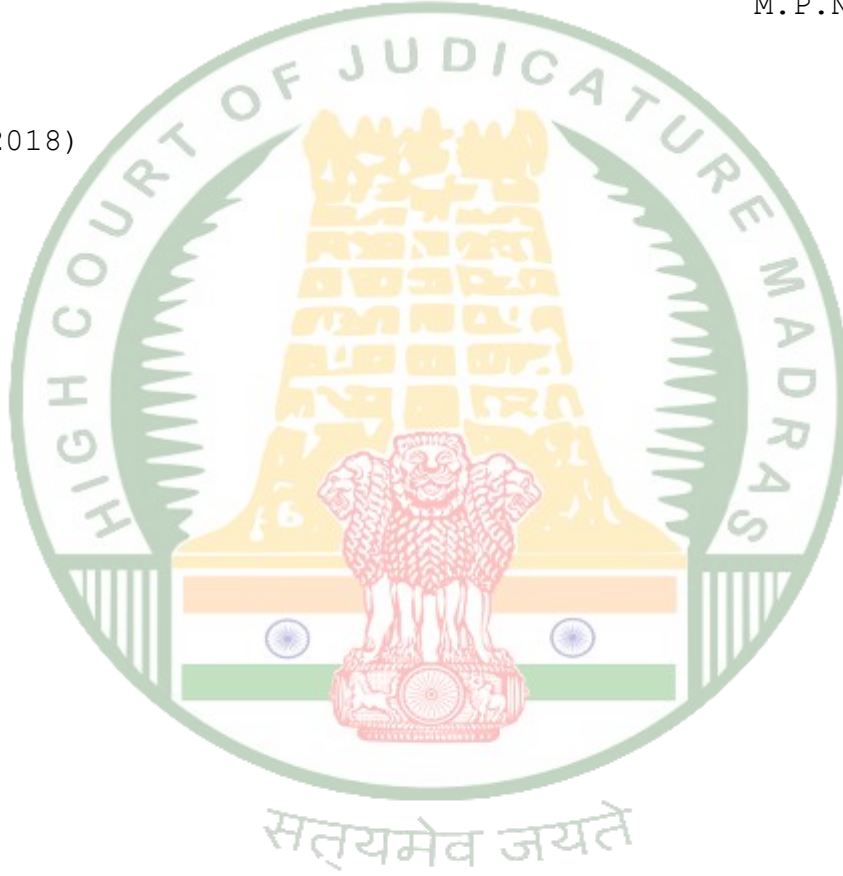
To

1.The Presiding Officer
II Additional Labour Court,
Chennai - 600 104.

+1 CC to Mr.A.S. Balaji, Advocate sr 36336.

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and
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SP(20/06/2018)



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