

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 23.10.2018

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

W.P. NO. 24340 OF 2018
AND
W.M.P. NO. 28355 OF 2018

The Management of
Coimbatore Murugan Mills
Mettupalayam Road
Coimbatore, rep. by its
General Manager. ... Petitioner

- Vs -

Robert Belaremin William ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus calling for the records of the Industrial Tribunal, Chennai, in Memo in Complaint No.2 of 2013, quash the order dated 18.4.2018 and further direct the Tribunal to take up the validity of the enquiry in the first instance.

For Petitioner : Mr. Haroon Al-Rashid for
M/S.T.S.Gopalan & Co.

For Respondent : Mr. T.Ramkumar

सत्यमेव जयते
ORDER

The petitioner/Management has filed a memo before the Labour Court seeking for an opportunity to adduce further evidence in the event of the Labour Court holding that the procedure adopted in the enquiry is not fair and proper. Based on this memo, the Labour Court, by order dated 18.4.18, has chosen to hold that the memo is not maintainable at that stage and it is illegal, unsustainable and not in accordance with law. This order is under challenge before this Court in this writ petition.

2. Heard the learned counsel appearing for the petitioner/Management and the respondent/workman and perused the materials available on record.

3. A careful perusal of the materials available on record reveals that the Labour Court has rendered a finding that the stage at which the memo has been filed is not proper as both sides have already rendered evidence. At the time of final hearing, this memo seems to have been filed, which has led the Court below to comment that the stage at which the application has been filed is not proper. To arrive at the said finding, the Labour Court relied upon the decision of the Constitution Bench of the Supreme Court in Karnataka State Road Transport Corporation - Vs - Lakshmiddevamma & Anr. (2001 (3) Supreme 652) which in turn, relied upon the decisions in Delhi Cloth & General Mills Co. case and Firestone Tyre & Rubber Co. of India (P) Ltd. case. In the said decision, it has been held that opportunity to seek for evidence must be exercised by the Management and only in that case opportunity must be given.

4. The Management, perhaps, taking into account this proposition of law, has filed the memo, as a safety measure, seeking for an opportunity, by filing the memo. The fact remains that the memo filed by the Management seeking for an opportunity should have been filed at the earliest stage of the proceedings and not after giving evidence. However, the sum and substance of the law has to be followed by the Court below.

5. May be, the stage at which the memo has been filed, is a bit belated. However, affording an opportunity to let in evidence on the question of conduct of enquiry would not be detrimental to the workman, as even a perusal of the evidence of workman reveals that he has no grievance with the conduct of the enquiry proceedings. More in the nature of safe play this memo seems to have been filed. In the above backdrop, this Court is of the considered view that there would not be any impediment for this Court to permit the prayer as made by the petitioner, however, with a rider.

6. Accordingly, there will be a direction to the Labour Court that in the event of the Labour Court coming to a conclusion that the enquiry conducted is not fair and proper, in that case, the petitioner/Management shall be given an opportunity to let in evidence. However, if the Labour Court feels that the enquiry proceedings are not vitiated and proceeds further, then it is open to the Labour Court to record the said

finding and proceed with the matter of hearing the matter on merits and in accordance with law.

7. With the above observation and direction, this writ petition is disposed of. Consequently, connected miscellaneous petition is closed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

GLN

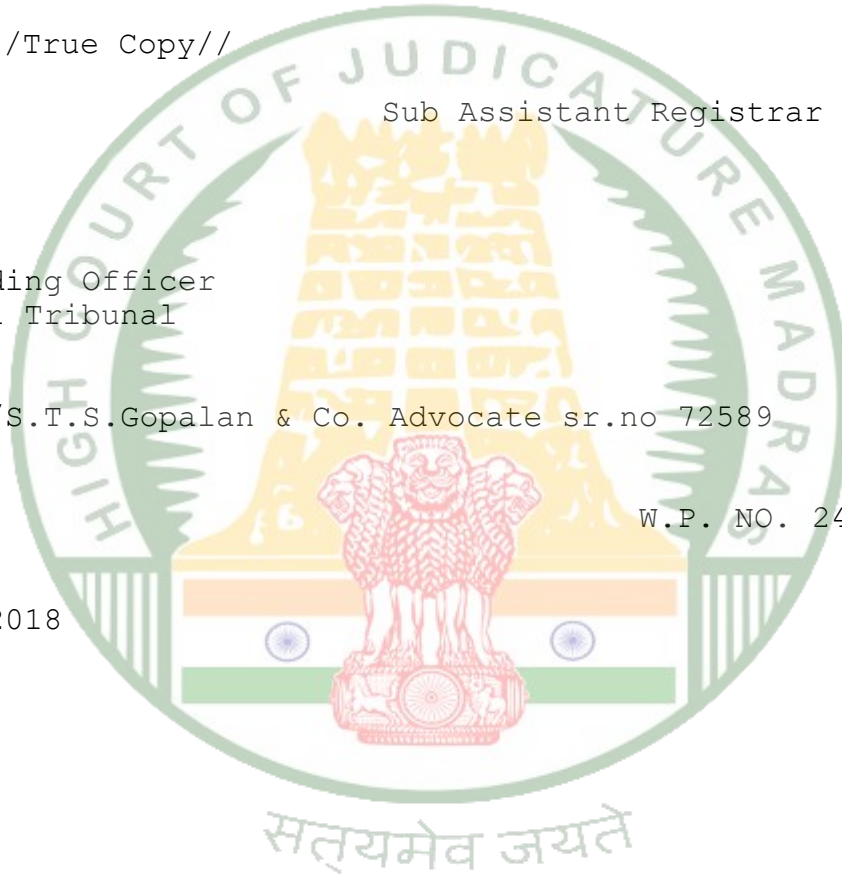
To

The Presiding Officer
Industrial Tribunal
Chennai.

+1cc to M/S.T.S.Gopalan & Co. Advocate sr.no 72589

W.P. NO. 24340 OF 2018

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nr 18/12/2018



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