

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.09.2018

CORAM

THE HON'BLE DR. JUSTICE S.VIMALA

W.P. NO.33751 OF 2013

Larsen & Toubro Ltd.
rep. by its Chief Manager
ECC Construction Division
Poonamallee High Road
Manapakkam, Chennai 600 089. ... Petitioner

- Vs -

1. The Presiding Officer
III Additional Labour Court
Chennai 600 104.
2. G.Saravanan ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying this Court for the issuance of writ of certiorari, calling for the records pertaining to the Award dated 28.5.2013 passed by the 1st respondent in I.D. No.463 of 2005 and quash the same.

For Petitioner : Mr. Jayeesh B.Dolia for M/s.Aiyar & Dolia

For Respondents: Mr.R.Raja for R2

ORDER

The Management has filed this writ petition challenging the award passed by the 1st respondent in ID No.463/05 in and by which the 2nd respondent raised an industrial dispute challenging the order of termination dated 29.11.03. The 1st respondent in the said ID passed an award setting aside the termination order passed by the petitioner herein and also ordered reinstatement in service with backwages, continuity of service and all other benefits. Aggrieved by the same, the present writ petition has been filed.

Brief Facts :

2. The 2nd respondent entered into the service of the Management on 1.4.94 as a trainee and appointed as probationer on 1.4.96 on a consolidated pay of Rs.1,065/- per month. The services of the workman was confirmed as Workman Gr.I on

10.11.96 in the time scale of pay. Later he was transferred and his job was redesignated as Technician. The 2nd respondent met with an accident on 6.7.00. He was granted leave from 8.7.00 to 9.10.00 and the period of absence was covered by sanctioned leave and salary was also paid. Disability compensation of Rs.60,000/- was also paid. As the track record of the workman was not good, he was terminated.

3. The contention of the workman is that the termination of service was arbitrary, unreasonable and against the principles of natural justice. It is the specific case of the workman that there was neither notice nor any enquiry before termination.

4. The case of the Management is that the workman was offered job in the new job site with backwages, but it is only the workman, who refused to accept the same, since he was gainfully employed at his native place. It is also alleged that the workman was sitting in the sunshade behind the tractor when the accident occurred and even then he was awarded full medical leave and compensation.

5. This Court bestowed its best attention to the contentions raised on behalf of the parties and also perused the materials available on record.

6. It is not the case of the Management that the workman is not a permanent employee of the Management. It is also not the case of the Management that any notice was issued before termination or any enquiry was conducted against the employee. Since he is a permanent employee of the Management, the services could not have been terminated without affording an opportunity of hearing, without issuing show cause notice and without conducting any enquiry. Mere payment of compensation in the event of an accident would not be equivalent to paying retrenchment compensation. The contention of the Management is against law and the Management is not justified in passing the order of termination without following the law, procedure and the principles of natural justice.

7. For the reasons stated above, this writ petition, being devoid of merits is liable to be dismissed and, accordingly, the same is dismissed. Award of the Labour court is confirmed. Consequently, the order of stay granted is vacated. However, in the circumstances of the case, there shall be no order as to costs.

8. It is represented that 50% of the wages has been deposited to the credit of ID No.463/05. In the above circumstances, the 2nd respondent workman is permitted to withdraw the same.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

GLN

TO:

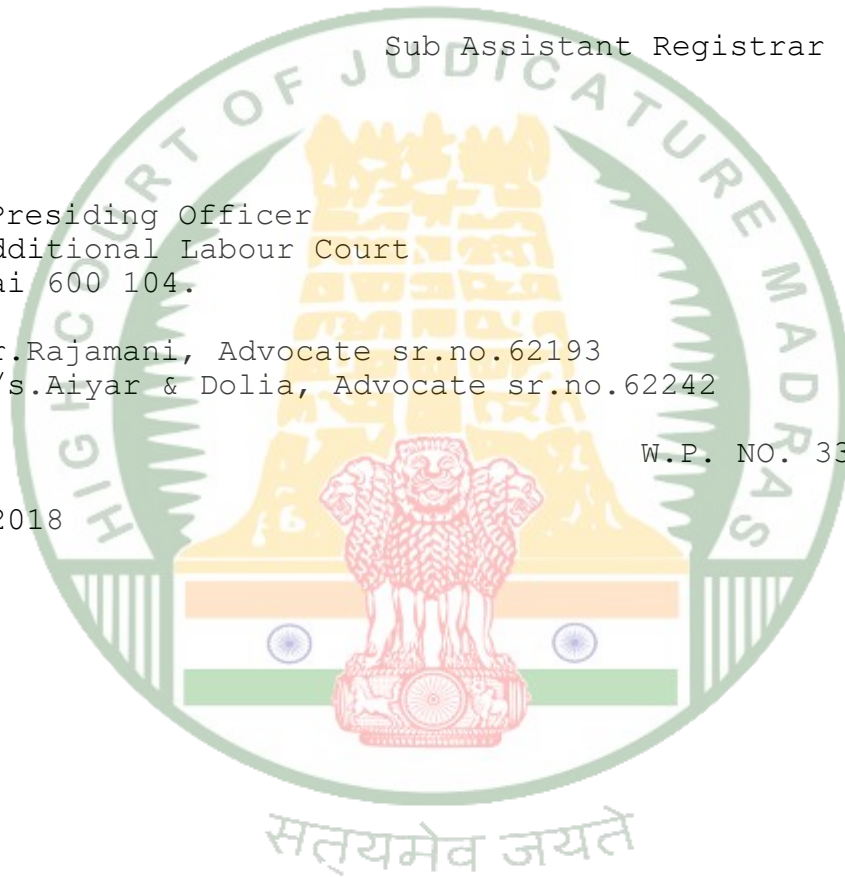
1. The Presiding Officer
III Additional Labour Court
Chennai 600 104.

+1cc to Mr.Rajamani, Advocate sr.no.62193

+1cc to M/s.Aiyar & Dolia, Advocate sr.no.62242

W.P. NO. 33751 OF 2013

nr 12/10/2018



WEB COPY