

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11/10/2018

C O R A M

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

Writ Appeal No.2286 of 2018

The Management of Vaels Educational Trust
Malliga Nagar
Old Pallavaram
Chennai 600 117.

... Appellant/Petitioner

Vs

1. The Additional Labour Court
High Court Buildings
Chennai 600 104.

2. J.Rajan ... Respondents/Respondents

Writ Appeal filed under Clause 15 of Letters Patent against the order dated 19/12/2017, passed in W.P.No.29451 of 2010.

W.P.No.29451 of 2010:-

Petition under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorarified Mandamus to call for the records and quash the award dated 02.06.2010 passed by the First Respondent The Presiding Officer The First Additional Labour Court in I.D.No.88 of 2008.

For appellant ... Mr.V. Meenakshi Sundaram

J U D G M E N T

(Judgment of the Court was made by S.MANIKUMAR, J)

Instant Writ Appeal is directed against the order, dated 19/12/2017, passed in W.P.No.29451 of 2010, by which the learned Single Judge, upheld the award, dated 2/6/2010, passed by the Presiding Officer, I Additional Labour Court, Chennai, in I.D.No.88 of 2008.

2. Facts in brief are as follows:-

Second respondent was working under Vaels Educational Trust, Chennai, as a Lab Attender. According to the second respondent, he was working for a period of eleven years, from 14/12/1994 to 23/4/2006. On 23/4/2006, the Management stopped the employee from entering into the establishment and denied employment from that date. Conciliation proceedings before the Conciliation Officer failed, which resulted in filing of I.D.No.88 of 2008.

3. Admittedly, the second respondent was not given any notice and he was stopped from working, since 23/4/2006. It is also a matter of record that despite several opportunities, no evidence was given by the Management before the labour Court and therefore, evidence on the part of the Management was closed.

4. Tribunal, by its order, dated 2/6/2010, directed the appellant Management, to reinstate the second respondent, with 50% back wages, continuity of service and other benefits.

5. Order of the labour Court, dated 2/6/2010, was challenged before the writ Court, in W.P.No.29451 of 2010, by the Management of Vaels Educational Trust. Writ Court, dismissed the writ petition, holding that there is nothing to show that before termination of service, any prior notice was given to the employee. Writ Court, also found that the appellant had not conducted any enquiry. The learned single Judge directed the Management, to implement the Award, in I.D.No.88 of 2008, dated 2/6/2010, passed by the Additional Labour Court, Chennai. Aggrieved against the order passed by the learned Single Judge, in W.P.No.29451 of 2010, Management of Vaels Educational Trust has come forward with the instant Writ Appeal.

6. Heard Mr.V.Meenakshi Sundaram, learned counsel for the appellant and perused the materials available on record.

7. Service of the second respondent was terminated, without any notice to him. When specifically asked as to whether any document is there to substantiate the fact that some kind of notice was given to the second respondent, learned counsel for the appellant candidly submitted that no notice was given. It is also not disputed that appellant had not furnished any evidence before the labour Court despite several opportunities granted, to substantiate their allegation that the second respondent was indulging in chit fund activities. In the absence of any material to substantiate the allegations of the appellant and in view of the fact that no notice was given to the second respondent before terminating him from service, we find no infirmity in the order passed by the learned Single Judge. Accordingly, the Writ Appeal is dismissed.

8. Learned counsel for the appellant would submit that payment, under Section 17 B of the Industrial Disputes Act, had been made. Courts below have granted 50% of the backwages. For the balance amount, if any, to be paid, the appellant Management is directed to pay the same, after deducting the amount paid, under Section 17 - B of the Industrial Disputes Act, to the second respondent, within a period of six weeks, from today. Appellant is also directed to reinstate the second respondent within the said period. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

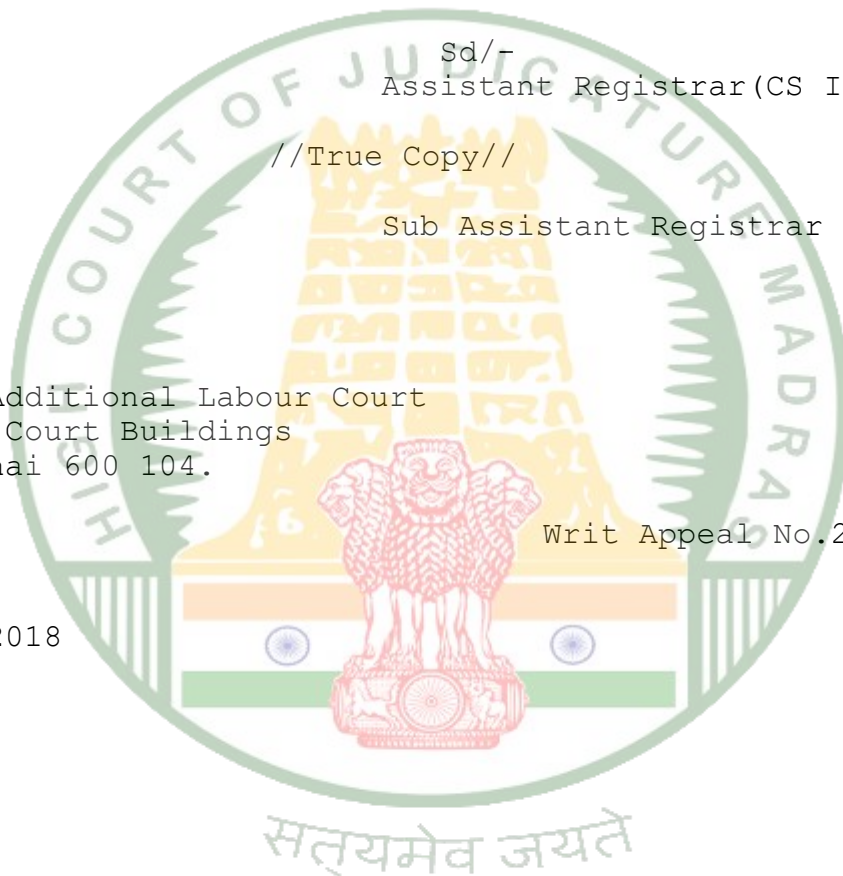
mvs.

To

The Additional Labour Court
High Court Buildings
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SKV(CO)
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