



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WEB COPY

W.P. (MD) No.21180 of 2017

and

W.M.P. (MD) No.17448 of 2017

Q-1260- Ilayangudi Primary Agricultural
Co-operative Credit Society,
Ilayangudi,
Sivagangai District,
represented by its Secretary,
R.Rajakumari

... Petitioner

Vs.

1.The Appellate Authority under the
Tamil Nadu Shops and Establishment Act
(Deputy Commissioner of Labour)
Madurai.

2.Bhuvaneswari

3.Vignesh

4.Karthick Sonia

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for records pertaining to the impugned order passed in Case No.TNSE 7/14 on the file of the first respondent the Appellate Authority under the Tamil Nadu Shops and Establishment Act (the Deputy Commissioner of Labour), Madurai, dated 02.05.2017 and quash the same as illegal.

For petitioner : Mr.J.Lawrance

For R1 : Mrs.S.Srimathy
Special Government Pleader

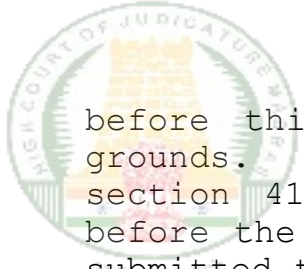
For R2 : Mr.T.Ravichandran

R3 : Tapal returned

For R4 : No appearance

O R D E R

Heard the learned counsel on either side.



before this Court. The said Boopalan was dismissed on certain grounds. Questioning his termination, he filed an appeal under section 41 of the Tamil Nadu Shops and Establishments Act, 1947, before the appellate authority, the first respondent herein. It is submitted that the said appeal was dismissed for non-prosecution. To restore the said appeal, the said Boopalan filed a restoration application. The order of dismissal for default was set aside and the appeal was restored. At the stage of restoration, the management was not put on notice.

3. In the meanwhile, the said Boopalan passed away. The legal heirs came on record and conducted the appeal proceedings. At that stage also, the management was not put on notice. The order of termination was set aside on 02.05.2017. Only when the order was intimated to the management, it became aware of these developments. The order passed by the Appellate Authority is questioned primarily on the ground that they were not put on notice. Eventhough, such a specific ground is taken in the writ petition, the same has not been rebutted.

4. It is obvious that the appellate authority has chosen to allow the appeal questioning the termination of said Boopalan without hearing the management. Therefore on this ground, the order impugned in this writ petition is quashed and it is remitted back to the appellate authority. The appellate authority is directed to fix a fresh hearing date and after hearing both parties, the proceedings should be completed within a period of 4 months from the date of receipt of a copy of the order.

5. Accordingly, this writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (Crl.Side)

/True Copy/

Sub-Assistant Registrar

To

The Appellate Authority under the
Tamil Nadu Shops and Establishment Act
(Deputy Commissioner of Labour), Madurai.
+One cc to The Special Government Pleader, SR.No.55988
pnn
RL/3C/2P/SV/MMS/SAR2/26/3/2018