

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 20.11.2019

CORAM

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

W.P.No.14833 of 2015
and
M.P.No.2 of 2015
and
W.M.P.No.277 of 2016

The Management of M&G Impex(India) Pvt., Ltd.,
Rep.by its General Manager, T.Ravi Shankar
Kamandoddi Post,
Hosur Taluk,
Krishnagiri District - 635 109

...Petitioner

Vs.

1.M.Hansigiri
2.The Presiding Officer,
Labour Court
Salem.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records on the file of the second respondent relating to the impugned Exparte award dated 05.01.2015 passed in I.D.No.117 of 2013 on the file of the 2nd respondent and quash the same.

For Petitioner : Mr.T.Sai Krishna
For M/s.Sai Bharath

For Respondent : R1 - Mr.K.M.Ramesh
R2 - Labour Court

O R D E R

The Award dated 05.01.2015 passed in I.D.No.117 of 2013 is under challenge in the present writ petition.

2. Admittedly, the Award impugned is an exparte award passed by the 2nd respondent, Labour Court.

3. The learned counsel for the writ petitioner states that the 1st respondent was appointed as a Driver on a consolidated pay and his appointment was on Probation for six months. Since the services of the 1st respondent was found not

required, he was discharged from service. The 1st respondent raised an industrial dispute, challenging such employment and the Labour Court passed an exparte award and challenging the exparte award dated 05.01.2015, the present writ petition is filed.

4. The learned counsel for the petitioner states that the Senior official of the writ petitioner Management was in ill health and during that period, the Labour Court heard the matter and accordingly, passed an exparte award. Thus, the non-appearance is on account of certain genuine reasons and there was no willful Act on the part of the writ petitioner Management.

5. This Court is of an opinion that all the issues are to be settled on merits and in accordance with law. The Courts must be slow in encouraging the execution of the exparte awards. Only if it is established that the exparte award was passed on account of the intention on the part of any of the parties to prolong or protract the issues and in all other circumstances, the parties must be afforded with an opportunity to adjudicate the issues on merits by producing documents and adducing evidences.

6. This being the principles to be followed, this Court is of an opinion that the present writ petition deserves to be considered. However, the grievances of the 1st respondent is also to be considered and unnecessarily, the 1st respondent is made to appear once again before the Labour Court.

7. Under these circumstances, this Court is inclined to award costs. Consequently, the exparte award dated 05.01.2015 passed in I.D.No.117 of 2013 is quashed. The 2nd respondent, Labour Court is directed to restore the Industrial Dispute in I.D.No.117/2013 on file and adjudicate the same by affording opportunity to all the parties on merits and in accordance with law and dispose of the same as expeditiously as possible.

8. The writ petitioner Management is directed to pay the cost amount of Rs.10,000/- (Rupees Ten Thousand only) to the learned counsel, who is appearing for the 1st respondent, within a period of two weeks from the date of receipt of a copy of this order, failing which, the writ petition itself stands dismissed automatically.

9. With this condition, the writ petition stands allowed with costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

To

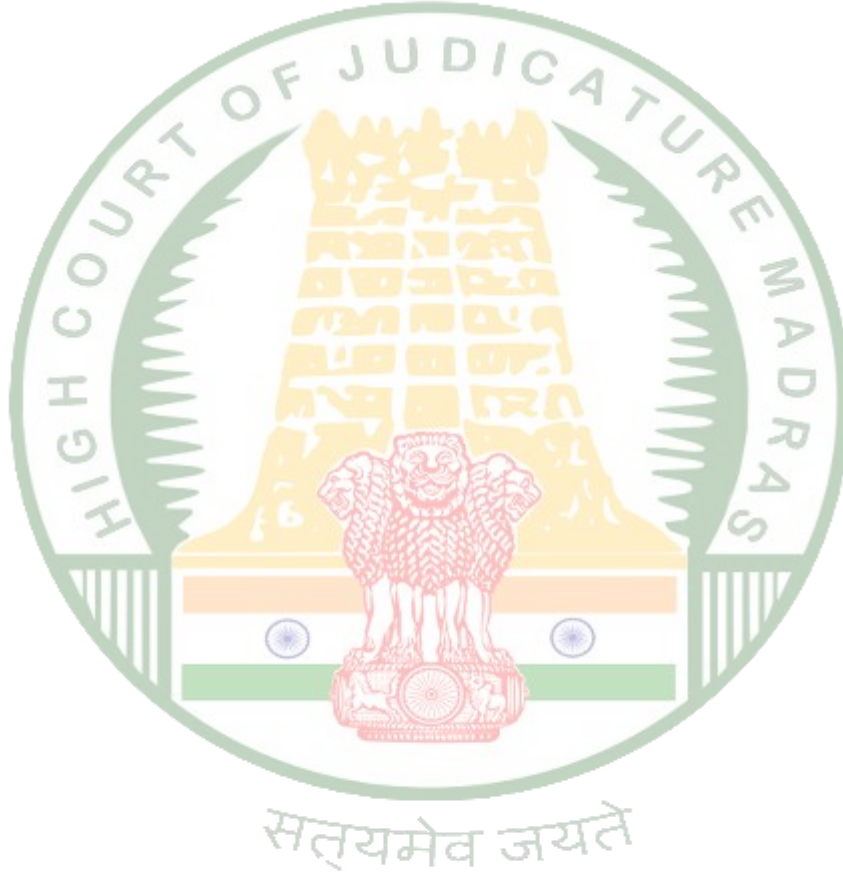
The Presiding Officer,
Labour Court
Salem.

+1cc to Mr.Sai Bharath , Advocate SR.No. 96875

+1cc to Mr.K.M.Ramesh , Advocate SR.No. 96755

W.P.No.14833 of 2015

A.SK(26/12/2019)



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