

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.32109 of 2007 and

M.P.Nos.1/2007 and 1/2010

The Management of
Kalpataru Chemicals Private Limited,
Post Box No.17,
Krishnagiri Road,
Hosur 635 109
rep. by its Director K.Ravi

... Petitioner

Vs

1. The Presiding Officer,
Labour Court, Salem.
2. The General Secretary,
Salem Mandala Anaithu Paniyalargal Sangam,
A4A Mariamman Koil Street,
Balaji Avenue,
Hasthampatti, Salem-7.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the 1st respondent in ID.No.417/02 and quash its award dated 24.04.2007.

For Petitioner : Mr.G.Anand
for M/s.T.S.Gopalan & Co.,

For 2nd Respondent : Mr.C.K.Chandrasekhar

O R D E R

This Writ Petition has been filed, questioning the correctness of the Award passed by the 1st respondent in I.D.No.417/02 dated 24.04.2007, thereby directing the petitioner to pay higher salary to the workman Mr.V.Veerasamy in accordance with the terms of Settlement dated 10.08.2000 from the date of accident.

2. Learned Counsel appearing for the petitioner submitted that when Mr.V.Veerasamy, who was serving as a Factory Workman in the petitioner's Factory, on 16.09.1998 at about 10.00 p.m. during the second shift, by his negligence suffered injury in his left eye, immediately, he was given first aid and thereafter, he was given medical treatment in the hospital by spending Rs.15,000/- for medical expenses and he was also paid a

sum of Rs.10,000/- by way of exgratia as he also lost his eye sight in his left eye on 16.11.1998. While so, purely on humanitarian ground, the petitioner came forward to offer a job of Office Assistant/Gardener on temporary basis to the workman V.Veerasamy and he was also given a notice under Section 9A of the Industrial Disputes Act on 01.02.2001 providing him the job of Office Assistant/Gardener and fixing his salary in accordance with the Grade applicable to the said job. Subsequently, the ESI Corporation also has furnished a certificate assessing his permanent disability at 30%. Thereafter, by a Communication dated 07.12.2001, the ESI Local Office, Hosur has given a certificate assessing the disability of the said workman V.Veerasamy at 40%. Therefore, he was also given disablement payment of Rs.26.64 per day by the ESI Corporation and the said sum was subsequently revised as to Rs.28.08 per day. While things stood thus, the 2nd respondent Union approached the Labour Court, Salem. Accepting the claim of the 2nd respondent, the 1st respondent has passed an Award directing the petitioner to pay higher salary to the workman V.Veerasamy.

3. The learned Counsel for the petitioner further submitted that since the provisions of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1947, more particularly, Section 47 of the said Act, is applicable to the petitioner Establishment on the date of accident, the petitioner should provide service benefits to V.Veerasamy based on the wages and other allowances and the salary payable to him on the date of accident in accordance with the Memorandum of Settlement dated 10.08.2000. This crucial aspect was overlooked by the 1st respondent. Therefore, the present Writ Petition has been filed.

4. However, today, when the matter is taken up, the learned Counsel for the petitioner management and the 2nd respondent Union have fairly submitted that as on today, the settled legal position shows that Section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1947, is equally made applicable to the petitioner's Factory also, however, with prospective effect w.e.f. 15.06.2017.

5. In view of the above, without going into the merits of the claim made by the petitioner, the learned Counsel appearing for the petitioner Management fairly submitted that the petitioner is prepared to comply with the Award passed by the 1st respondent in I.D.No.417/02 dated 24.04.2007.

6. Recording the same, the Writ Petition is disposed of directing the petitioner Management to pay the workman

V.Veerasamy the salary including the wages and other allowances for the period from 15.02.2001 to November, 2002 on the basis of the Memorandum of Settlement dated 10.08.2000, within a period of two weeks from the date of receipt of a copy of this Order. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

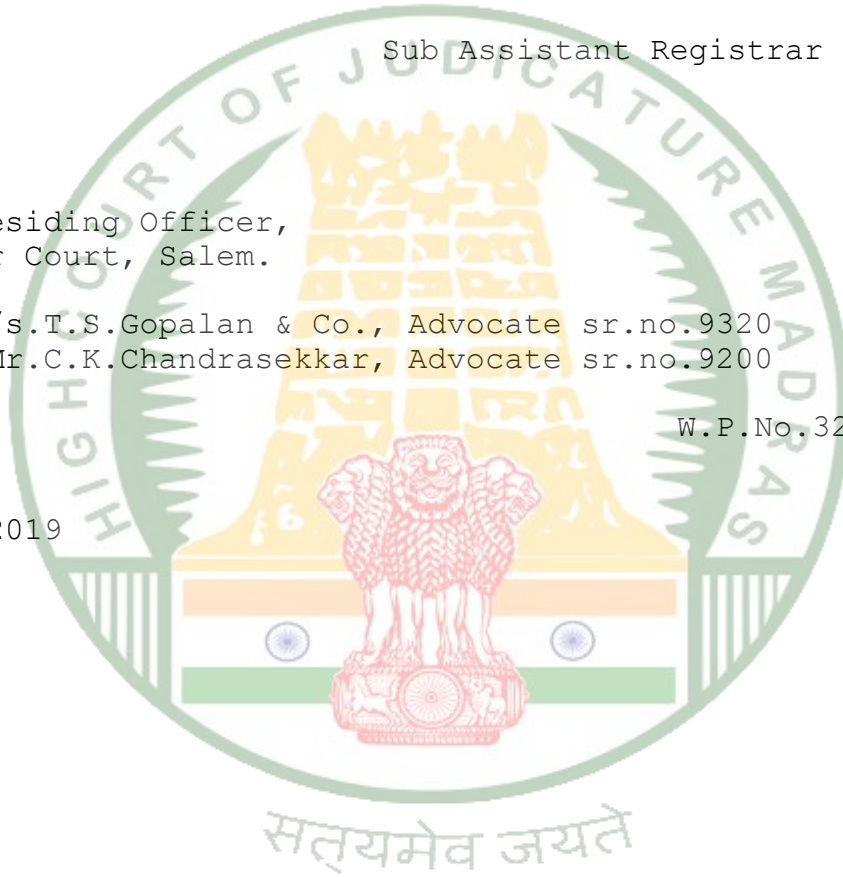
1. The Presiding Officer,
Labour Court, Salem.

+1cc to M/s.T.S.Gopalan & Co., Advocate sr.no.9320

+1cc to Mr.C.K.Chandrasekhar, Advocate sr.no.9200

W.P.No.32109 of 2007

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