IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.16563 & 16564 of 2010
and M.P.Nos.1 & 1 of 2010

The Management of Cross Point Switch Ltd
Rep.by its Manager
No.11, Okkiyum Thoraipakkam
Chennai-600 096. ...Petitioner in W.P.No.16563 of 2010

The Management of Reed Relays Electronics India Ltd.,
Rep.by its Personal Manager,
No.11, Okkiyum Thoraipakkam,
Chennai-600 096. ...Petitioner in W.P.No.16564 of 2010

vs.

1. Tmt.D.Banumathi

2. The Presiding Officer
The 1st Additional Labour Court,
Madras High Court Campus,
Chennai-600 104. 1st and 2nd respondent in both WPs

3. The Management of Reed Relays Electronics India Ltd.,
No.11, Okkiyum Thoraipakkam,
Chennai-600 096.
...3rd Respondent in WP.16563/10

The Management of Cross Point Switch Ltd
No.11, Okkiyum Thoraipakkam
Chennai-600 096. ...3rd Respondent in ***WP.16564/10**

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COMMON PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the 2nd respondent in its proceedings made in I.A.127/2006, 128/2006 in I.D.988/99, 31st March 2010 and quash the same and consequently, direct the 2nd respondent to give an opportunity to the petitioner to contest the case on merits.

For Petitioner in both W.Ps : M/s.P.V.Jayakumari for M/s.P.C.Harikumar and Associates

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For Respondents : R2-Labour Court
in both W.Ps M/s.G.Vaishali
for M/s.T.Fennwalter Associates for R3.

O R D E R

The orders dated 31st March 2010 passed in I.A.Nos.127/2006, 128/2006 in I.D.988/99 are under challenge in the present writ petitions.

2. The Management of Cross Point Switch Limited and the Management of Reed Relays Electronics India Limited are the petitioners in the present writ petitions. The first respondent/workman has filed an Industrial Dispute in I.D.No.988/99 and an ex-parte award was passed by the Labour Court. The first respondent/workman was retrenched from service on 08.04.1999 without any notice or any notice pay or retrenchment compensation. Therefore, the first respondent/workman raised an Industrial Dispute before the Labour Court and she had taken private notice to the writ petitioner/Management as per the order of the Labour Court. All the notices were returned by Postal Department with an endorsement "Refused". The writ petitioners were aware of the Industrial Dispute. They were also aware of the claim petition filed by the workman in C.P.No.235 of 2005 and the award passed on 11.09.2001. After a lapse of about 1193 days, the writ petitioners/Management filed a petition to condone the delay and to set aside the ex-parte order. The Labour Court found that the ex-parte order was passed on 11.09.2001, on the ground that the writ petitioners/Management refused to receive the notice. On verification, they found in the "A" Diary that AOS filed for R1, await for R2, notice by 04.05.20005. Though the writ petitioners refused non-receipt of the notice, petition to set aside the ex-parte award was filed, after a lapse of 1193 days. The facts and circumstances would reveal that the writ petitioners/Management have not received any notice, issued by the Labour Court as well as the private notice issued by the workman.

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3. This Court is of the considered opinion that the Industrial Dispute was raised against the order of retrenchment. Admittedly, an ex-parte order was passed in the year 2001. The claim petition was also filed by the workman and thereafter, the writ petitioner/Management has chosen to file a petition to condone the delay of 1193 days and to set aside the ex-parte order passed on 11.09.2001. Thus, the Labour Court made an observation that the conduct of the writ petitioners/Management cannot be approved and in fact, they were aware of the fact regarding the filing of the Industrial Dispute as well as the claim petition filed by the workman. They have perpetually evaded notice and failed to appear before the Labour Court in order to defend their case. The

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intention of the writ petitioner/Management was well considered by the Labour Court by stating that they have been evading the service of the notice and not appeared before the Labour Court and allowed the Labour Court to pass an ex-parte order.

4. This being the factum, this Court is of the considered opinion that after this length of time, no purpose would be served by considering the petitions filed by the writ petitioners/Management for the purpose of re-opening the Industrial Dispute which was already decided on 11.09.2001.

5. The first respondent/workman has already suffered for long years and the writ petitions also kept pending for about 9 years. The ex-parte order was passed in the year 2001. The order of retrenchment was under challenge before the Labour Court. The workman is unable to get any relief for the past about 20 years from the date of retrenchment. Under these circumstances, this Court is not inclined to grant any relief in favour of the writ petitioners/management. Accordingly, the order passed by the second respondent dated 31 March 2010 in I.A.Nos.127 & 128 of 2006 in I.D.No.988 of 1999 stands confirmed and the writ petitions stand dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS)

***as per order letter**
dated 16.12.2019
-s/d-
Sub Assistant Registrar
dt 17/12/2019

//True Copy//

Sub Assistant Registrar

ssb

To

The Presiding Officer
I Additional Labour Court,
Chennai - 600 104

order to be substituted
For the order already

despatched on 18.11.2019

+1cc to M/s.T.Fennwalter Associates , Advocate SR.No. 77274
+2ccs to Mr.P.C.Hari kumar , Advocate SR.No. 77326,77327

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A.SK(22/10/2019)

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