

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 15.10.2019

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.30959 & 30960 of 2005
&
W.M.P.Nos.33941 & 33942 of 2005

The Management
N.S.Bus Service,
No.6., Omalur Road,
Salem - 636 009.

...Petitioner in both WPs

..Vs..

1.The Presiding Officer,
Labour Court,
Salem.

...Respondent No.1 in both WPs

2.K.Achudhan

...Respondent No.2 in W.P.No.30959/05

3.K.Ramachandran

...Respondent No.2 in W.P.No.30960/05

Petitions filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records in I.D.No.628 & 629 of 2000 respectively on the file of the Labour Court, Salem the first respondent herein and quash the award dated 06.05.2004 passed therein.

For Petitioner : Mr.M.R.Raghavan
(in both the WPs)

For Respondents : No appearance for R.2
(in both the WPs)

COMMON ORDER

The awards dated 06.05.2004 passed in I.D.Nos.628 & 629 of 2000 respectively are under challenge in the present writ petitions.

2.The learned counsel appearing on behalf of the writ petitioner states that the second respondent(s)/workmen were employed as Mechanic and Driver respectively in the petitioner

establishment. On and from 01.07.1996, the second respondent(s)/workmen did not report for duty without prior permission or intimation. Consequently, notices were issued to the second respondent(s)/workmen on 10.07.1996 and 18.07.1996. In spite of the notices, the second respondent(s)/workmen did not report for duty. Accordingly, on 25.07.1996, the second respondent(s)/workmen names were removed from the roll. The second respondent(s)/workmen have availed a loan amount of Rs.40,000/- from the petitioner/establishment. Since, the second respondent(s)/workmen did not repay the loan amount, a suit was filed before the Competent Civil Court, Salem, based on the Promissory note executed by the respondent. An ex parte decree was passed in the suit. Subsequently, during the year 2000, the second respondent raised Industrial Disputes stating that they were terminated from employment without following the procedures contemplated under law. The second respondent(s)/workmen have taken up employment in another firm in Chennai.

3.The Industrial Disputes raised in I.D.Nos.628 & 629 of 2000 were adjudicated and the writ petitioner has established that the second respondent(s)/workmen left the employment on his own and only after the decree passed in the civil suit, they raised the industrial dispute in order to avoid the repayment of loan amount.

4.The learned counsel appearing on behalf of the petitioner stated that industrial disputes were raised consequent to the judgment and decree passed by the Civil Court to repay the loan amount availed from the petitioner/establishment. Thus, the filing of Industrial Disputes after a lapse of four years ought not to have been entertained.

5.The Labour Court in-lieu of reinstatement, granted compensation of Rs.30,000/- and Rs.20,000/- respectively to be paid by the writ petitioner/establishment to the second respondent(s)/workmen. The learned counsel appearing on behalf of the petitioner states that the labour Court has not assigned any valid reason for awarding compensation. When the second respondent(s)/workmen themselves were not willing to work and left their job on their own, there is no reason to grant award in favour of the second respondent(s)/workmen.

6.The learned counsel appearing on behalf of the petitioner solicited attention to the findings of Labour Court wherein, it is stated that the second respondent(s)/workmen have not taken any action for more than 4 years, even as per the second respondent(s)/workmen, they were terminated from services with

effect from 01.08.1996 and the industrial dispute was raised in the year 2000. Thus, there was a delay of about four years even in raising an industrial dispute. In these circumstances, the Labour Court found that there was fault on the part of the workmen also in not approaching the Competent Court during the relevant point of time. The Labour Court further found that the dispute was raised consequent to the action initiated by the writ petitioner/establishment against the promissory note executed by the workmen.

7. Therefore, this Court is of the considered opinion that the Labour Court has committed an error in awarding compensation, though the finding says that there was a delay in raising an industrial dispute and such a dispute which was raised belatedly, mainly on the ground that the writ petitioner/establishment has initiated action to execute promissory note, signed by the second respondent(s)/ workmen. When such a finding is arrived at by the Labour Court, the award of compensation is inconsonance with the principles and this apart, the second respondent(s)/workmen has not established that they were terminated from services.

8. Contrarily no evidences were made available before the Labour Court that the writ petitioner/establishment terminated the second respondent(s)/workmen from service. The contention of the writ petitioner was that the second respondent(s)/workmen remained unauthorizedly absent and not turned back to duty. The Management sent two notices which were not responded. Under these circumstances, it cannot be construed that the writ petitioner has terminated the services of the second respondent (s)/workmen.

9. This being the factum of the case, the award of compensation is contrary to the facts and circumstances as well as the documents placed before the Labour Court. Thus, the awards passed by the Labour Court dated 06.05.2004 in I.D.Nos.628 & 629 of 2000 respectively are quashed and the writ petitions stand allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

mrm

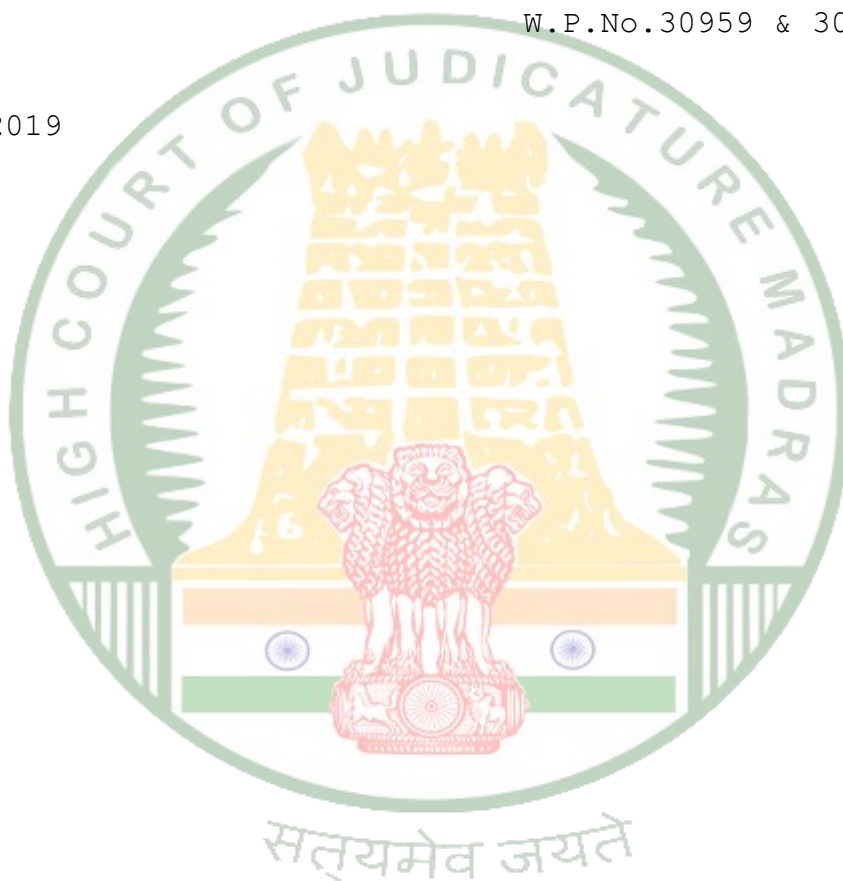
To

The Presiding Officer,
Labour Court,
Salem.

+lcc to Mr.A.R.Suresh, Advocate sr.86350

W.P.No.30959 & 30960 of 2005

vgi(co)
nr 22/11/2019



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