

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.40160 of 2005

M/s.N.M.Zakaria Industries Private Ltd.,
rep.by its Manager B.Ameen Basha
s/o B.Abdul Khalique
Thuthipet, Ambur
Vellore District.Petitioner

vs.

1. The Presiding Officer,
Labour Court, Vellore.

2. Sampoornameal ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the impugned award passed by the 1st respondent in I.D.No.86/1998, dated 20.05.1999 and quash the same.

For Petitioner : Mr.V.Jeevagiridharan

For Respondents : R1-Labour Court
Non-appearance for R2.

O R D E R

The award dated 20.05.1999 passed in I.D.No.86 of 1998 is under challenge in the present writ petition.

2. The writ petitioner is M/s.N.M.Zakaria Industries Private Limited. The second respondent was employed in the writ petitioner firm. The second respondent remained unauthorizedly absent without any prior intimation. The Management sent a letter to the second respondent on 30.08.1997, asking the workman to report for duty. However, the second respondent sent a letter with some false allegations and thereafter, the second respondent had failed to report for duty.

3. The learned counsel for the writ petitioner states that the award is an ex-parte one and there was no adjudication. A perusal of the award reveals that there is no representation for respondent/workman. Based on the proof affidavit, the industrial dispute was allowed as prayed for

with the cost of Rs.250/-. Undoubtedly, the respondent/workman had not pursued the proceedings before the Labour Court. However, such an ex-parte award cannot be allowed to be executed. In normal circumstances, only if the parties have intention to protract and prolong the issues, then alone, the Courts have to take a view and in normal circumstances, all issues have to be adjudicated on merits and in accordance with law. The High Court cannot encourage the ex-parte proceedings to be executed.

4. In view of the fact that the award impugned is an ex-parte award and there was no adjudication, this Court is of the opinion that the industrial dispute is to be adjudicated on merits. Accordingly, the award dated 20.05.1999 passed in I.D.No.86 of 1998 is quashed. The first respondent is directed to restore the industrial dispute on file and hear the matter by affording opportunity to all the parties concerned and decide the issues on merits and in accordance with law as expeditiously as possible.

5. With these directions, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

The Presiding Officer,
Labour Court, Vellore.

+1cc to M/s.V.Jeevagiritharan, Advocate Sr.89910

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srg 05/12/2019