

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 18.02.2019

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P. NO. 4519 OF 2019

AND

W.M.P. NO. 5093 OF 2019

Mitsubha Sical India Pvt. Ltd.
No.8, Sipcot Industrial complex
Gummidipoondi
Thiruvallore District 601 201.

.. Petitioner

- Vs -

Tamilselvan

.. Respondent

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus calling for the records pertaining to the order dated 1.3.2018 in I.A. No.97 of 2016 in I.D. No.435 of 2015 passed by the II Addl. Labour Court, Chennai, and quash the same as being illegal, perverse, arbitrary and unjust and direct the II Addl. Labour Court, Chennai, to consider the question of merits in I.A. No.97 of 2016 in I.D. No.435 of 2015 on its file allowing the parties to let in evidence.

For Petitioner : Mr. Sundar Mohan for
M/s.S.Mekhala

ORDER

The Management is the petitioner before this Court. Challenge is made to the order passed by the II Addl. Labour Court, Chennai in I.A. No.97 of 2016 in I.D. No.435 of 2015 rejecting the petition filed by the petitioner/Management seeking to frame a preliminary issue as to whether the respondent is a workman or not under the provisions of the Industrial Disputes Act.

2. According to the learned counsel for the petitioner, the respondent is working as supervisor and earning more than Rs.40,000/-. The respondent herein was issued with a charge memo dated 13.5.13 and a domestic enquiry was conducted and enquiry report was filed on 10.6.14. On the basis of the findings in the enquiry, wherein the charges levelled against the respondent were held proved, after due process of law, the respondent was dismissed from service on 31.7.14.

3. As against the order of dismissal passed by the Management, the respondent/employee raised an industrial dispute

in I.D. No.435/15. The petitioner/Management filed I.A. No.97/15 praying for dismissal of the industrial dispute on the ground that the respondent/employee was not a workman as defined u/s 2 (s) of the Industrial Disputes Act. The II Addl. Labour Court, Chennai, without giving an opportunity to the parties to lead evidence in support of their rival claims, dismissed the petition by a one line order. Against the said order, the present petition has been filed.

4. When an issue of this nature has been raised by the petitioner/Management, which goes to the root of the matter, it is imperative on the part of the Labour Court to allow the parties to lead evidence before deciding the issue one way or the other. But, unfortunately, the Labour Court has conveniently dismissed the petition by way of an one line order without disclosing its mind. On the face of the order, it appears that there is total non-application of mind on the part of the Labour Court and, therefore, this Court, deems it fit to allow this writ petition at the admission stage itself, since no purpose would be served by admitting the writ petition and keeping the matter pending on its file.

5. In view of the above, prima facie it is evident that the order passed by the Labour Court is unsustainable and, therefore, the same is liable to be interfered with. For the reasons shown above, the impugned order of the Labour Court in I.A. No.97 of 2016 in I.D. No.435 of 2015 is set aside and the II Addl. Labour Court is directed to allow the parties to lead evidence in support of their rival claims and, thereafter, pass a reasoned order considering the objections raised by the Management/petitioner herein.

6. In the result, this writ petition is allowed in the above terms. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

GLN

To

The II Addl. Labour Court, Chennai.

+lcc to M/s.S.Mekhala, Advocate, S.R.No.14390

W.P. NO. 4519 OF 2019

CA(CO)

rrs 25/02/2019

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