

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 29.11.2019
CORAM:
THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
W.P.No.34158 of 2013
&
M.P.No.1 of 2013

The Managing Director,
Tamil Nadu State Transport Corporation,
(Coimbatore) Limited,
No.37, Mettupalayam Road,
Coimbatore.

...Petitioner

Vs..

1.Smt.Sakila Begum
2.The Presiding Officer,
Labour Court,
Coimbatore.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the second respondent dated 14.09.2013 passed in I.A.No.106/2013 in I.D.No.240 of 2003 and quash the same.

For Petitioner : Mr.P.Kannan Kumar

For Respondents : Mr.V.Ajay Khose
(for first respondent)

ORDER

This writ petition is filed by the Tamil Nadu State Transport Corporation (Coimbatore) Limited, to set aside the order passed by the second respondent in I.A.No.106/2013 in I.D.No.240 of 2003 dated 14.09.2013.

2.The deceased workman Mr.A.Kaleel raised an industrial dispute challenging the order of dismissal. During the pendency of the industrial dispute, the said Mr.A.Kaleel died and the legal representative impleaded themselves as the petitioners and was conducting the case. While so on 04.07.2012 the counsel appearing on behalf of the first respondent herein made an endorsement that they have no objection regarding the domestic enquiry conducted by the management of the Transport

Corporation. Subsequently it was represented before the Labour Court that the said endorsement was made by mistake of fact, as some vital facts of the domestic enquiry and issues arising out of the same were missed by oversight. The learned counsel represented that during the verification of the entire enquiry report it was found that the said domestic enquiry had been conducted in violation of the principles of natural justice and that the findings of the enquiry officer were also perverse. Thus, he filed an Interlocutory Application to struck down the endorsement made by the learned counsel for the first respondent herein.

3.The said application was objected by the writ petitioner/management and the Labour Court arrived at a conclusion that deceased workmen Mr.Kaleel had specifically attacked the fairness of the enquiry and correctness of the findings of the Enquiry Officer. However during the pendency of the industrial dispute the workman Mr.Kaleel died and his legal representatives were brought on record. These legal representatives may not have any personal knowledge about the domestic enquiry. Under these circumstances the respondent/Transport Corporation cannot take any undue advantage of the said endorsement made by the learned counsel appearing for the workman. Thus, the Labour Court arrived at a conclusion that in the event of allowing the Interlocutory Application no prejudice would be caused to the Management of the Transport Corporation as well as the legal representatives of the workman, who filed industrial dispute.

4.This Court is of the opinion that there is no perversity or infirmity in respect of the findings. The endorsement made by the learned counsel by mistake cannot be taken undue advantage by the Management. All the issues are to be adjudicated on merits. This apart the workman who filed Industrial Dispute was also died. This being the factum, this Court is not inclined to interfere with the order passed by the Labour Court and consequently the order passed by the second respondent/Labour Court dated 14.09.2013 in I.A.No.106 of 2013 in I.D.No.240 of 2003 is confirmed and the writ petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed. The labour Court is directed to proceed with the Industrial Dispute and dispose of the same as expeditiously as possible.

Sd/-

Assistant Registrar(CS III)

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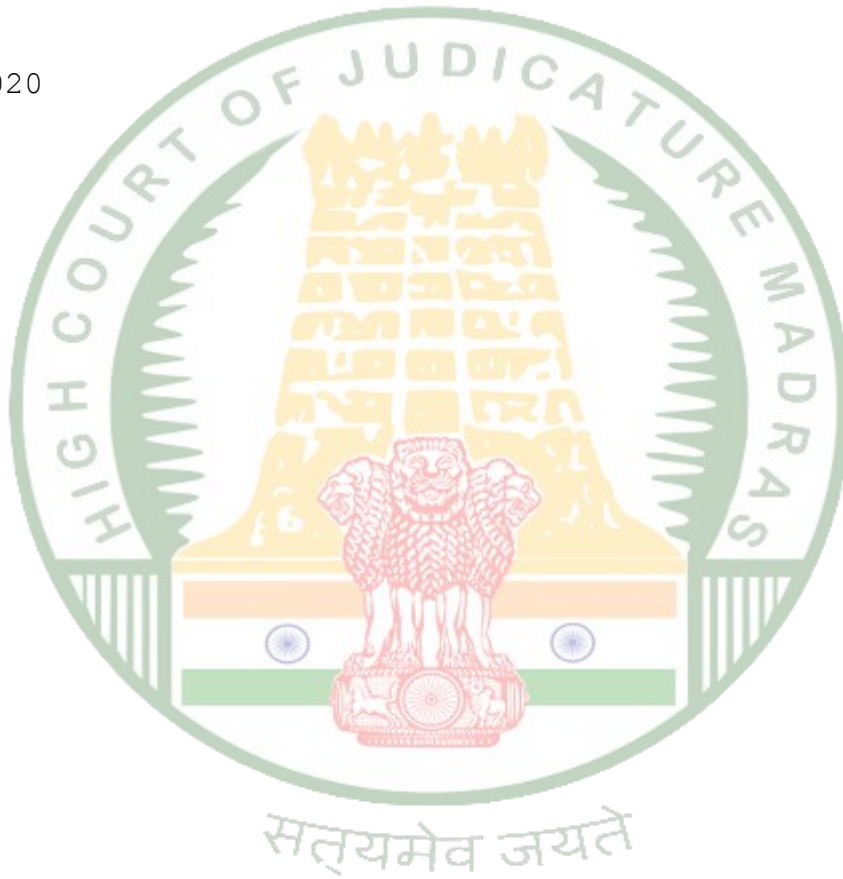
Sub Assistant Registrar

To
The Presiding Officer,
Labour Court,
Coimbatore.

+1cc to Mr.V.Ajoy Khose, Advocate, S.R.No.99877
+1cc to Mr.P.Kannan Kumar, Advocate, S.R.No.100315

W.P.Nos.34158 of 2013

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