

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18-10-2019

Coram

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.5495 of 2014

Vitalo Plastics Solutions India Pvt Ltd.,
Represented by its General Manager,
APT A2/C-Thibuvan,
No.82, Sakthi Nagar,
Nolambur,
Chennai-600 095,
Tamil Nadu.

Head Office at

Vitalo Group NV represented by its
Chief Executive Officer,
Bruggesteeweg 7,
8760 Meulebeke,
Belgium.

.... Petitioner

vs.

1.The Deputy Labour Commissioner (Minimum
Wages),
(Appellate Authority under Tamil Nadu
Shops and Establishments Act, 1947),
Office of the Labour Commissioner,
Fourth Floor,
Teynampet,
Chennai-600 006.

2.A.Selvaraj

.... Respondents

PRAYER : Writ Petition filed under Article 226 of the
Constitution of India praying for issuance of a Writ of
Certiorari, calling for the records of the impugned order dated
29.11.2013 in TSE-II/5/2013 issued by the first respondent
herein and to quash the same as illegal and non-est in the eyes
of Law, including the cost of this writ petition.

For Petitioner : Mr.R.Ravindran,
Senior Counsel for

Mr.L.Swaminathan.

For Respondent-1 : Mr.J.Ramesh,
Additional Government Pleader.

For Respondent-2: Mr.P.R.Thiruneelakandan

O R D E R

The order passed by the first respondent dated 29.11.2013 in TSE-III/5/2013 is under challenge in the present writ petition.

2. The writ petitioner M/s.Vitalo Plastics Solutions India Pvt Limited is a Manufacturing Industry.

3. The second respondent was employed in the writ petitioner-Company. The second respondent workman was discharged from service by invoking the terms and conditions stipulated in the order of appointment. Challenging the said order, the workman preferred an appeal before the competent authority under the Shops and Establishments Act.

4. Before the authority, the writ petitioner-Company was set ex parte. However, counter statement was filed at the earliest point of time. The grounds raised by the writ petitioner-Company in the counter was extracted and was not considered by the authority and finally the petition filed by the workman was allowed only on the fact that the first respondent was set ex parte. Consequently, an order of reinstatement was issued.

5. The learned Senior Counsel appearing on behalf of the writ petitioner-Company made a submission that the counter statement was filed well in advance and therefore, the matters are to be adjudicated on merits and in accordance with law. Contrarily, the authority passed an order of reinstatement by way of an ex parte order.

6. This Court is of the considered opinion that all the issues in normal circumstances are to be adjudicated on merits and findings are to be provided. Equally, the parties are also bound to be vigilant in respect of hearing of cases before the authority concerned.

7. In the present case on hand, the writ petitioner-Company had filed counter-affidavit in the petition filed by the workman. During the hearing date, the representative was not present and accordingly, the writ petitioner-Management was set ex parte.

8. This being the factum, the writ petitioner-Company appeared and filed their counter and during the final hearing, they failed to appear and accordingly set ex parte. Thus, this Court is of the considered opinion that the case is to be remanded back for adjudication on merits with reference to documents and evidences and a decision is to be taken.

9. In this view of the matter, the order dated 29.11.2003 in TSE-II/5/2013 is quashed and the first respondent is directed to restore the petition on file and adjudicate the issues on merits by affording opportunity to all the parties concerned and decide the matter as expeditiously as possible, preferably within a period of six months from the date of receipt of a copy of this order.

10. Accordingly, the writ petition stands allowed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

Svn

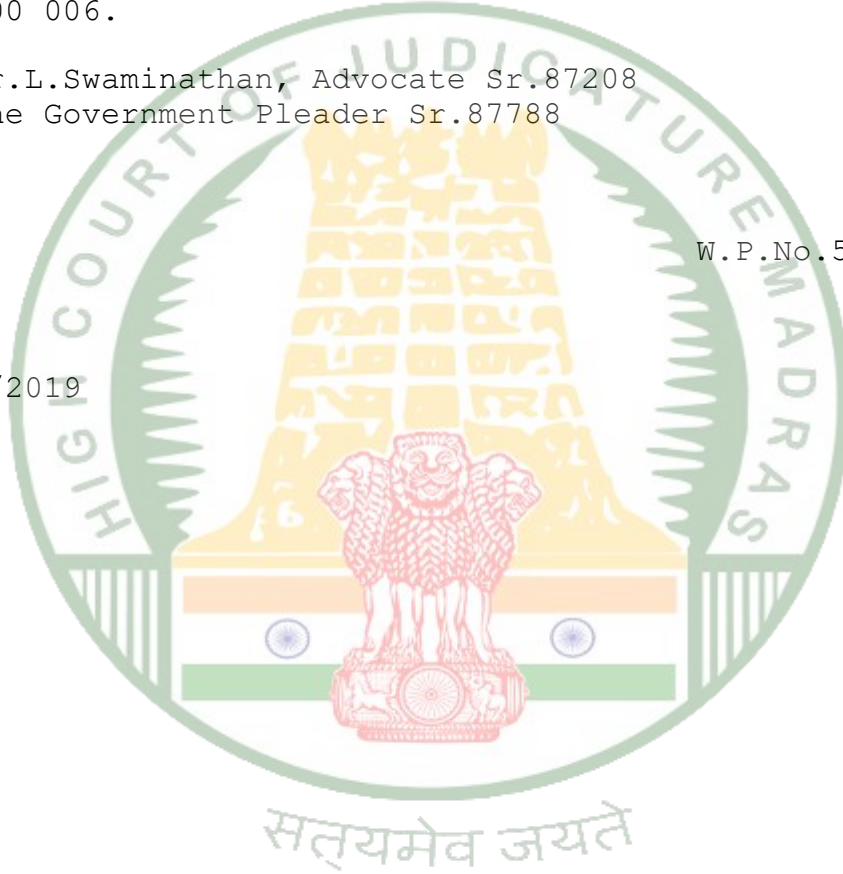
To

The Deputy Labour Commissioner (Minimum
Wages),
(Appellate Authority under Tamil Nadu
Shops and Establishments Act, 1947),
Office of the Labour Commissioner,
Fourth Floor,
Teynampet,
Chennai-600 006.

+1cc to Mr.L.Swaminathan, Advocate Sr.87208
+1cc to the Government Pleader Sr.87788

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