

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated : 11-11-2019
Coram
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
W.P.No.14156 of 2010

M/s.Premier Distilleries (P) Ltd.,
Represented by its Manager Mr.K.Sundaram,
R.S.No.62/8, Madugarai Road,
Mangalam,
Pondicherry.

.. Petitioner

vs.

1.The Labour Court,
Pondicherry.

2.Ms.E.Rajeswari

3.Ms.P.Jothi

4.Ms.A.Kalaivani

5.Ms.K.Suganthi

6.Ms.R.Meenatchi

7.Ms.S.Brindavathi

8.Ms.P.Bharathi

9.Ms.M.Bhakriammyal

10.Ms.K.Nagavalli

11.Ms.S.Thillairathan

12.Ms.S.Senganniammal

13.Ms.D.Mangaiyarkarasi

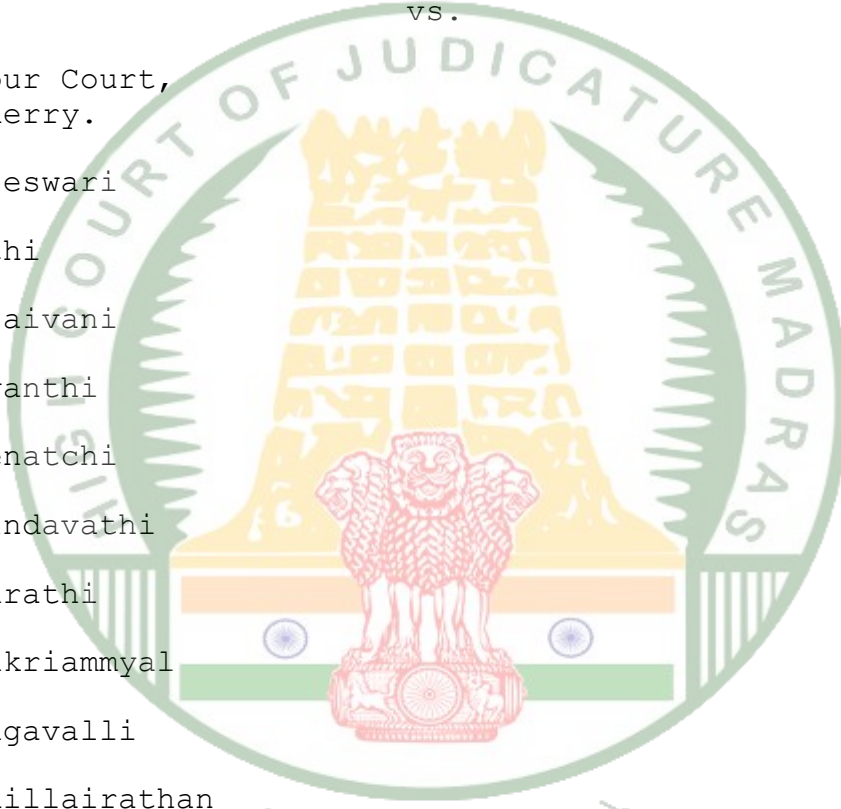
14.Ms.I.Rajalakshmi

15.Ms.K.Vijaya

16.Ms.S.Vennila

17.Ms.G.Abirami

18.Ms.A.Vijayagandhi



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19.Ms.G.Arulselvi

20.Ms.K.Sarala

21.Ms.P.Muthu

22.Ms.K.Indira

23.Ms.A.Jothilakshmi

24.Ms.K.Anbarasi

25.Ms.R.Navamani

26.Ms.M.Tualsiammal

27.Ms.P.Gomathy

28.Ms.K.Tamilselvi ... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records of the first respondent in ID No.3 of 2006, quash the impugned proceedings dated 16.03.2010 being contrary to the ratio laid down by the Apex Court and further direct the first respondent to dismiss the petition filed by the respondents 2 to 28 following the decision of the Apex Court in 2006 (4) LLN 208 for the reason that the said respondents had not discharged the burden of proving in employment with the petitioner for more than 240 days in the preceeding year.

For Petitioner : Mr.G.Mutharasu for
Mr.V.Sundareswaran

For Respondent-1 सत्यमेव जयते : Labour Court

For Respondents-2to28 : Ms.E.Malini for
M/s.Pass Associates

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The Award dated 16.03.2010 passed by the Labour Court in I.D.No.3 of 2006, is sought to be quashed in the present writ petition.

2. The writ petitioner-Management is a Small Scale Industry registered with the Government of Pondicherry.

3. The learned counsel appearing on behalf of the writ petitioner-Management states that the writ petitioner-Company is running a factory at Mangalam Village and is engaged in the activities of 'blending' and 'bottling' of Indian Made Foreign Liquor (IMFL). On account of certain allegations, disciplinary proceedings were initiated against the respondents 2 to 28. A domestic enquiry was conducted and subsequently, based on the findings of the Enquiry officer, respondents 2 to 28 were terminated from service. The respondents/workmen raised an industrial dispute in I.D.No.3 of 2006. The Labour Court allowed the industrial dispute and issued a direction to reinstate the workmen with all consequential benefits. Challenging the said Award of the Labour Court, the present writ petition has been filed.

4. The learned counsel for the writ petitioner-Company made a submission that in respect of the co-workers, who had involved in the same allegations and a common enquiry was conducted and another industrial dispute was raised in I.D.No.2 of 2006. Challenging the said Award, which was passed on 08.03.2010, the writ petitioner-Management filed WP No.14155 of 2010 and this Court passed an order on 12.10.2019 and the relevant paragraphs 44, 45 and 46 read as under:-

"44. Therefore, this Court is of the view that, the reasoning given by the Labour Court to reach a conclusion of setting aside the order of termination with a direction of reinstatement with backwages to the workers, may not be justifiable, and therefore, the order impugned, is liable to be set aside.

45. In the result the following orders are passed in the writ petition.

(i) The impugned award of the first respondent / Labour Court is set aside;

(ii) In view of the specific case on the part of the respondents / workers that they had been not given due opportunities to cross-examine the management witnesses and to project their witnesses to substantiate their cases, the matter is remitted to the management for conducting a de nova domestic enquiry;

(iii) Such de nova domestic enquiry shall be conducted by the petitioner / management by appointing a fresh Enquiry Officer, by supplying all materials available with the management to the respondents / workers in

advance and after fixing date and days for conducting enquiry, where adequate opportunity shall be given to the respondents / workers.

(iv) The enquiry at any rate shall be commenced within four weeks from the date of receipt of copy of this order and shall be concluded within a period of three months from the date of such commencement;

(v) Based on such de nova domestic enquiry to be conducted as directed above, necessary action, depending upon the outcome of the domestic enquiry report, can be taken by the petitioner management.

46. With these directions, the writ petition is ordered. Consequently, connected miscellaneous petition is closed. No costs."

5. The order passed by this Court in that writ petition, namely, WP No.14155 of 2010 was taken by way of an appeal in W.A.No.544 of 2018 and the Hon'ble Division Bench of this Court dismissed the writ appeal on 15.03.2018. Thus, the order passed in that writ petition namely, WP No.14155 of 2010, on 12.10.2017, became final.

6. The learned counsel for the writ petitioner-Management made a submission that the facts and the circumstances and the allegations are one and the same and a common domestic enquiry was conducted, from and out of which, two industrial disputes were raised. One in I.D. No.2 of 2006 and another in I.D.No.3 of 2006.

7. As far as the Award passed by the Labour Court in I.D.No.2 of 2006 is concerned, WP No.14155 of 2010 was disposed of on 12.10.2017 and the said order was confirmed by the Hon'ble Division Bench of this Court in W.A. No.544 of 2018 dated 15.03.2018.

8. This being the factum, the order passed in WP No.14155 of 2010 dated 12.10.2017 shall be followed in the present writ petition also and accordingly, the following orders are passed:-

(i) The impugned award of the first respondent / Labour Court passed in I.D.No.3 of 2006 dated 16.03.2010, is quashed;

(ii) In view of the specific case on the part of the respondents / workers that they had been not given due opportunities to cross-examine the management witnesses and to project their witnesses to substantiate their cases, the matter

is remitted to the management for conducting a de nova domestic enquiry;

(iii) Such de nova domestic enquiry shall be conducted by the petitioner / management by appointing a fresh Enquiry Officer, by supplying all materials available with the management to the respondents / workers in advance and after fixing date and days for conducting enquiry, where adequate opportunity shall be given to the respondents / workers.

(iv) The enquiry at any rate shall be commenced within four weeks from the date of receipt of copy of this order and shall be concluded within a period of three months from the date of such commencement;

(v) Based on such de nova domestic enquiry to be conducted as directed above, necessary action, depending upon the outcome of the domestic enquiry report, can be taken by the petitioner management.

9. With the above directions, the writ petition stands allowed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS-VIII)

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Sub Assistant Registrar

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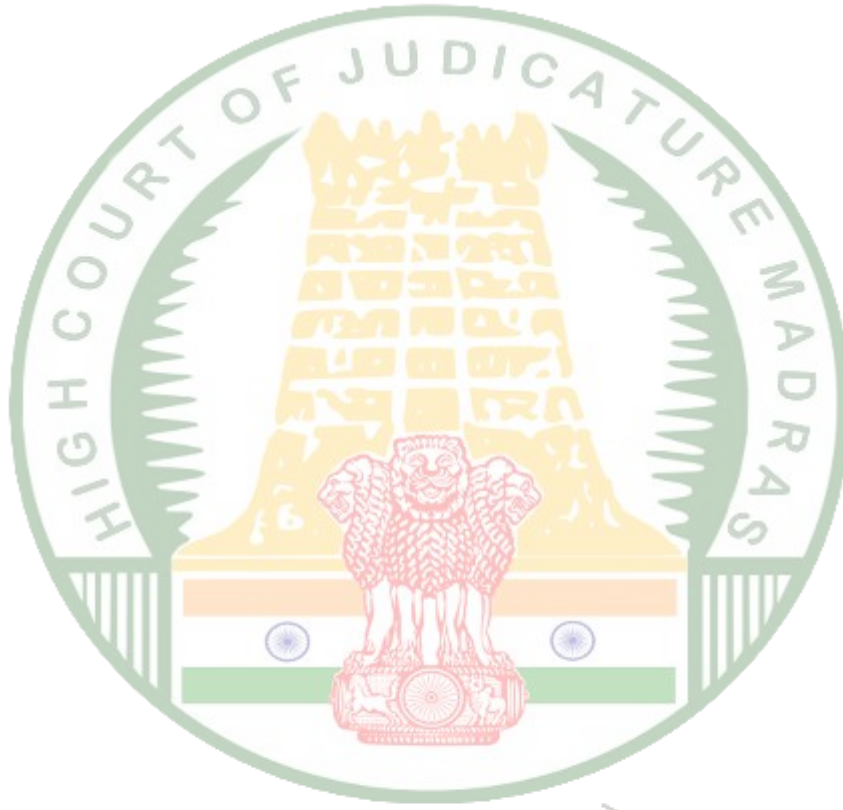
The Labour Court,
Pondicherry.

+2cc to Mr.V.Sundareswran, Advocate, SR.No.94152 & 93975.

WP No.14156 of 2010

CA (CO)
CSR(11/12/2019)

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सत्यमेव जयते

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