

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 05..12..2019
CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Civil Revision Petition No.2967 of 2019
and
C.M.P.No.19161 of 2019

The Management HCL Technologies Limited,
8, South Phase,
MTH Road,
Ambattur Industrial Estate,
Chennai 600 058.

.... Petitioner

-Versus-

Mr.N.Chandran

.... Respondent

Petition filed under Article 227 of the Constitution of India, praying to set aside the order dated 15.04.2019 made by the learned Presiding Officer, III Additional Labour Court, Chennai, in I.A.No.91 of 2018 in I.D.No.42 of 2018.

For Petitioner : Mr.Srinath Sridevan

For Respondent : Mr.Balan Haridoss for
Mr.S.Jim Raj Milton

ORDER

This revision petition has been filed by the management as against the interlocutory order passed by the labour court deciding a preliminary issue in favour of the respondent that he is a "workman" within the definition Section 2(s) of The Industrial Disputes Act, 1947.

2. The respondent raised an industrial dispute in I.D.No.42 of 2018 under Section 2(A)(2) of The Industrial disputes Act, 1947 (in short, "the Act") as against the order of retrenchment passed by the petitioner management. Pending the same, the petitioner management filed an interlocutory application praying the labour court to decide the issue as to whether the respondent is a "workman" under Section 2(s) of the Industrial Disputes Act. On considering the pleadings and the materials produced by either side, the labour court has passed an order against the petitioner management holding that the respondent is a "workman" within the definition under Section 2(s) of the

Industrial Disputes Act. It is this interlocutory order which is now under challenge in this revision petition.

3. The learned counsel appearing for the petitioner would submit that the respondent was working as Lead Engineer in the petitioner company and he never discharge his duty as workman. But, the labour court, without properly considering the materials placed before it, has erroneously come to a conclusion that the respondent had been discharging the predominant duty of a workman and as such decided the preliminary issue in favour of the respondent that he is a "workman" which is ex facie illegal. The petitioner, therefore, prayed this court to set aside the order impugned in this revision petition and consequently dismiss the industrial dispute case.

4. Per contra, the learned counsel appearing for the respondent would contend that the respondent had been discharge the predominant duty of a workman and therefore, there is no perversity or illegality in the finding rendered by the labour court based on the materials. Further according to the learned counsel, in an industrial dispute case, there cannot be any short cut way to decide a particular issue involved in the dispute as a preliminary issue instead of deciding the main issue as to whether the workman is entitled for the relief sought for. In support of his contention, the learned counsel placed reliance heavily upon the judgement reported in D.P.Maheshwari v. Delhi Administration, (1983) 4 SCC 293.

5. Yet, the learned counsel for the respondent would in all fairness submit that instead of deciding the issue in this revision petition on merits, the order passed by the labour court may be set aside and the labour court may be directed to decide the issue as to whether the respondent is a workman or not along with the issue with respect to the validity of the order of retrenchment and dispose of the industrial dispute case within a time frame. For this, the learned counsel for the petitioner has got no objection.

6. In the light of the above position, without going into the merits and demerits of the case, the order impugned in this revision petition is set aside and the labour court is directed to decide the dispute in I.D.42 of 2018 on merits and in accordance with law by framing appropriate issues including an issue as to whether the respondent is a 'workman' within the definition of Section 2 (s) of the Industrial Disputes Act and dispose of the same within a period of six months from the date of receipt of a copy of this order. While deciding the dispute, the learned Presiding Officer shall not influence by the findings or observation made in the impugned order. This Civil

Revision Petition is allowed accordingly with the above directions. No costs. Consequently, connected CMP is closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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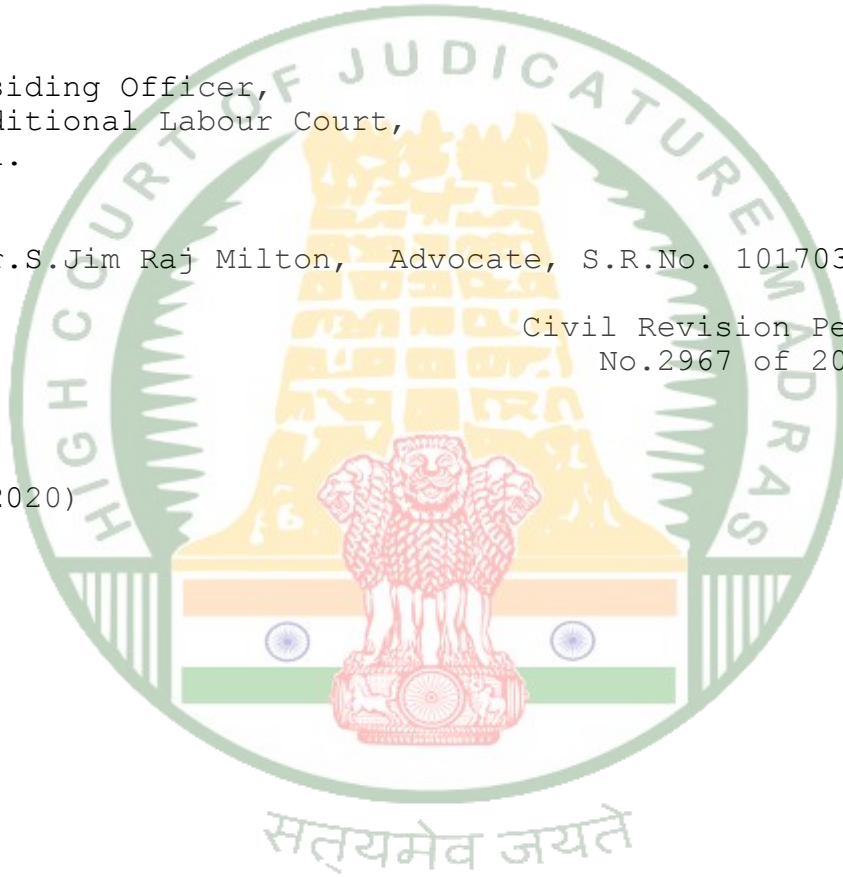
To

1.The Presiding Officer,
III Additional Labour Court,
Chennai.

+2cc to Mr.S.Jim Raj Milton, Advocate, S.R.No. 101703

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VSN II(CO)
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