



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.12.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.11202 of 2017
and
W.M.P.No.12159 of 2017

1. S.Ansar Badhusha
2. T.Sugunath ...Petitioners

vs.

- 1.The 1st Additional Labour Court
Chennai.
- 2.Nirvakam
Tamil Nadu Minsara Variam
Chengalpattu Min Pakirmana Vattam
Chengalpattu
Kancheepuram District.
- 3.Tamil Min Oozhiyar Mathiya Amaipu
Chengalpattu Min Pakirmanam Vaattakillai
1-D/1, G.S.T. Road
Chengalpattu,
Kancheepuram District - 603 001. ...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the entire records pertaining to the award made in I.D.No.247 of 2014 dated 28.03.2017 passed by the 1st respondent and to quash the same.

For Petitioner : Mr.T.Mohan
for Mr.G.Mutharasu

For Respondents : Mr.T.S.Aakash, for R2

R1 - Court

R3 - No Appearance





5. In this writ petition, notice was ordered to the contesting respondent/Union and even after service, the third respondent/Union has not chosen to appear before this Court either in person or through the counsel and on the other hand, the name of the third respondent is printed in the cause list. The second respondent/Management is being represented through their counsel.

6. It is seen that the third respondent/Union has questioned the promotion given to the petitioners herein by the second respondent/Management to the respective posts. The Management though filed a counter before the Labour Court, was however, set ex-parte later. Consequently, the Labour Court decided the matter after hearing the third respondent/Union as well as the petitioners herein. It is to be noted at this juncture, that these petitioners were not originally impleaded as parties/respondents in the said Industrial Dispute and it is seen that they were impleaded, subsequently, as parties/respondents.

7. Perusal of the impugned award would show that the Labour Court has chosen to set aside the seniority position granted to these petitioners only on the reason that no documentary evidence was produced to show that these petitioners filed appeals before the Chief Engineer, against their non-inclusion. On the other hand, the counter filed by the management before the Labour Court, clearly indicates that these petitioners have filed such appeals in time. However, since the management was set ex-parte, no documentary evidence was marked in support of such claim. Therefore, this Court is of the view that it is better that the matter be remitted back to the Labour Court for rehearing the same for the purpose of marking the material documents in support of the contention of the petitioners as well as the second respondent that proper appeal was made before the concerned authorities challenging non-inclusion. It is also to be noted at this juncture, that the affected party, if any, have not come before the Labour Court and on the other hand, only the Union has chosen to file the industrial dispute. In any event, as the Labour Court has decided the matter only on the reason that no documentary evidence was filed and since this Court is inclined to remit the matter back to the Labour Court, the parties are at liberty to adduce further evidence and make their submissions before the Labour Court in connection with such evidence.

8. Accordingly, this Writ Petition is allowed and the impugned order is set aside. Consequently, the matter is remitted back to the I Additional Labour Court, Chennai, for rehearing I.D.No.247 of 2014. The second respondent/Management and the petitioners herein are permitted to mark documentary evidences in support of their contention. After marking such documents and hearing the respective parties, the Labour Court shall pass fresh award on merits and



in accordance with law. The whole exercise shall be done by the first respondent/Labour Court, within a period of four months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

mk

To

The 1st Additional Labour Court
Chennai.

+1cc to Mr.G.Mutharasu, Advocate SR.No.104641

W.P.No.11202 of 2017

VD(CO)
GMY(21/01/2020)