

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 12.02.2019

Coram
The Hon'ble Mr. Justice V.PARTHIBAN

W.P.No.26812 of 2018
and
W.M.P.No.31166 of 2018

M/s.M.A.Chidambaram Educational Trust,
Rep. by its Secretary,
Sri.P.Vedagiri, S/o.Porurar Chettiar
V.H.S.Hospital Campus,
Chennai 600 113.

... Petitioner

Vs

R.Visalatchi

.... Respondent

PRAYER : Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus, to call for records relating to the order dated 16.07.2018 in I.A.No.98 of 2018 in I.D.No.91 of 2018 on the file of I Additional Labour Court, Chennai and quash the same and consequently direct the I Additional Labour Court, Madras, to allow the petitioner to be represented by their counsel in the proceedings in I.D.No.91 of 2018.

For Petitioner : Ms.AL.Ganthimathi

For Respondent : Mr.A.Nagarathinam

O R D E R

The petitioner has filed the present writ petition to call for records relating to the order dated 16.07.2018 in I.A.No.98 of 2018 in I.D.No.91 of 2018 on the file of I Additional Labour Court, Chennai and quash the same and consequently direct the I Additional Labour Court, Madras, to allow the petitioner to be represented by their counsel in the proceedings in I.D.No.91 of 2018.

2. The petitioner is an Educational Trust and the respondent is the employee employed as Warden. According to the management, the respondent workman had committed an act of misconduct, for which, an enquiry was initiated. During the course of the enquiry, it appears that the respondent herself submitted a resignation on 24.05.2017 and requested the Management to pay Gratuity and Provident Fund etc. Consideration of her future, the Management accepted the resignation and discharged her from

service by providing all the benefits payable to the respondent.

3. Subsequently, the respondent raised an industrial dispute in I.D.No.91 of 2018, praying for settlement of all benefits. The petitioner herein filed vakalat through counsel on 18.05.2018. However, the respondent filed an application in I.A.No.98 of 2018 under Section 36(4) of the Industrial Disputes Act 1947, to bar the engagement of advocate by the Management in the proceedings before the Labour Court. On behalf of the petitioner, it was contested before the Labour Court that the Management had right to appoint counsel to defend the case. The Labour Court after noting all the objections filed on behalf of the workman as well as taking note of the submission made on behalf of the Management, allowed the application filed by the workman on 16.07.2018, stating that the Management cannot have right to engage an advocate when the workman is represented by the authorised representative. As against which, the present writ petition has been filed.

4. The learned counsel for the petitioner would submit that in the absence of legal assistance, the Management would suffer great prejudice and hardship and it cannot be represented effectively in the proceedings before the Labour Court.

5. On the other hand, the learned counsel for the workman would submit that the workman concerned was represented by only authorised representative. Therefore, the Management has no right to engage a lawyer.

6. During the course of the earlier hearing, this Court directed the learned counsel for the petitioner to verify whether the authorised representative, representing the workman, is a legally trained person in the eye of law. Today when the matter is taken up for hearing, the learned counsel for the petitioner is unable to find out the qualification of the authorised representative and again submitted that the interest of the Management would be severely undermined if the Management is not permitted to engage a lawyer.

7. This Court is unable to appreciate the arguments advanced on behalf of the petitioner. The law is well settled on the aspect that once the workman makes objection for engagement of lawyer by the Management under the provisions of the Industrial Disputes Act, the Management loses its right to engage the service of the lawyer in the proceedings before the Labour Court. No doubt that in case the workman is represented by a lawyer or a person of legally trained mind, then in which case, it is well with the right of the Management to enforce its right to engage the services of the lawyer. But, the same right is not available to the Management, if the workman is merely represented by the authorised representative. In the instant

case, the workman is represented by only the authorised representative.

8. Therefore, the order passed by the Labour Court in this regard does not suffer from any infirmity in the eye of law. Hence, the writ petition is without any merits and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gsk

To

The Presiding Officer/ I Additional Labour Court,
Chennai.

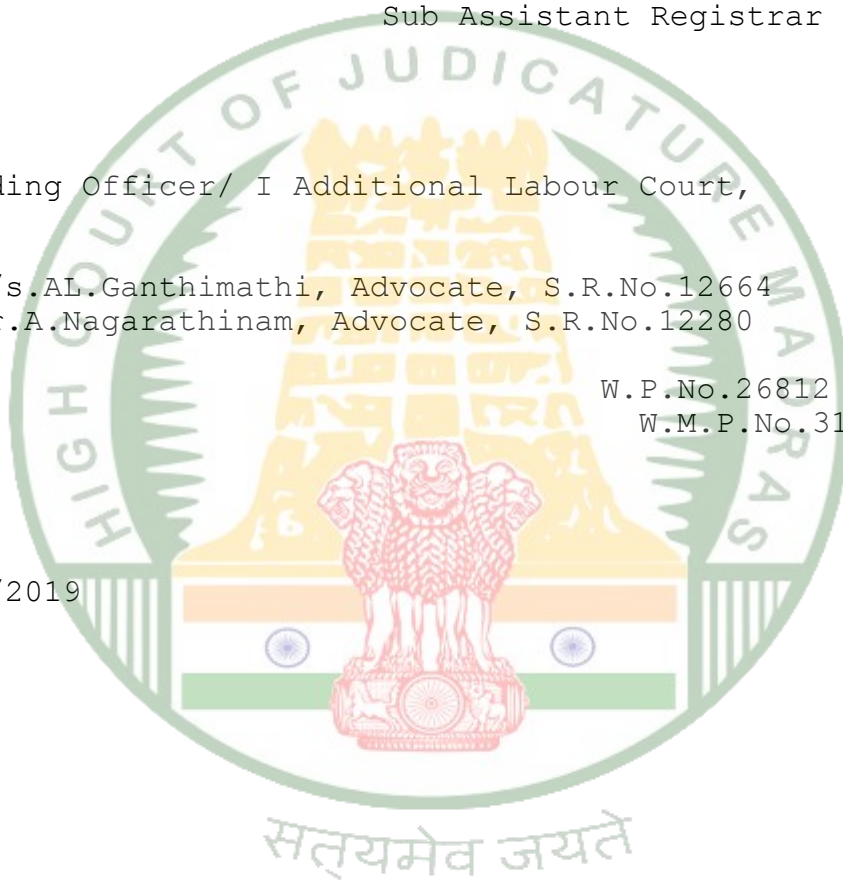
+1cc to M/s.AL.Ganthimathi, Advocate, S.R.No.12664

+1cc to Mr.A.Nagarathinam, Advocate, S.R.No.12280

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MP (CO)

rrs 18/02/2019



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