

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2019

CORAM

THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM

W.P.No.27541 of 2018
and
W.M.P.No.32059 of 2018

The Management,
M/s.Padma Seshadri Bala Bhavan
Senior Secondary School,
No.29, Alagirisami Salai,
K.K.Nagar, Chennai-600 078.
Rep., by its Assistance General Manager.

... Petitioner

-vs-

K.Muniswari

... Respondent

Petition under Article 226 of the Constitution of India
praying for issuance of Writ of Certiorari to call for the
records relating to the Award dated 03.03.2018 passed by the
Third Additional Labour Court, Chennai in I.D.No.244 of 2014 and
to quash the same.

For Petitioner : Mr.S.Ashok Kumar

For Respondent : Mr.R.Chandran

ORDER

The award dated 03.03.2018, passed in I.D.No.244 of 2014 is
under challenge in the present writ petition.

2.The petitioner is the Management of M/s. Padma Seshadri
Bala Bhavan Senior Secondary School, which is a private school
recognised by the Central Board of Secondary Education. The
respondent was admittedly employed as a teacher in the writ
petitioner school.

3.The grievance of the respondent was that she was
terminated from service without following the procedures and in

violation of the principles of natural justice. Thus, the respondent raised an industrial dispute in I.D.No.244 of 2014.

4.The learned counsel for the writ petitioner Management reiterated that even in the pleadings, the petitioner has taken an objection with regard to the maintainability of the industrial dispute under Section 2(A)2 of the Industrial Disputes Act, 1947 (hereinafter referred to as "the Act"). The objection raised was that a teacher working in a recognised school is not a workman within the definition of Section 2s of the Act. In spite of the objections, the Labour Court proceeded with the adjudication and passed an award allowing the claim petition by setting aside the termination order and granted 50% backwages and other attendant benefits.

5.This Court is not inclined to go into the other grounds raised in respect of the fairness of the enquiry or otherwise, as the preliminary objection raised by the writ petitioner Management was that a Teacher working in a private school is not a workman within the definition of Section 2s of the Act. This being the factum, adjudication of issues on merits would cause prejudice to the respondent to redress her remedy before the appropriate forum in the manner known to law. Thus, the question arises whether, the industrial dispute can be raised under Section 2(A)2 of the Act.

6.The fact remains that the respondent was a teacher working in the writ petitioner school. A teacher is not a workman within the definition of Section 2s of the Act. However, the Labour Court failed to appreciate the legal position and further, failed to consider the objections raised by the Management in this regard. The respondent has to redress her remedy before the appropriate forum by filing an appeal or by filing a civil suit before the civil court of law. Under these circumstances, the respondent is at liberty to redress her grievances in the manner known to law. However, the award of the Labour Court is perverse in view of the fact that the respondent, who was employed as a teacher in the writ petitioner school, is not a workman within the definition of Section 2s of the Act.

7.Accordingly, the award dated 03.03.2018, passed in I.D.No.244 of 2014 is quashed and the writ petition stands allowed. It is made clear that if at all the respondent prefers any appeal before the competent authority, the competent authority shall consider condoning the delay in filing such appeal or otherwise, in view of the fact that the respondent has chosen a wrong forum and such a mistake cannot be held against

the respondent for deciding the issues on merits. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

abr

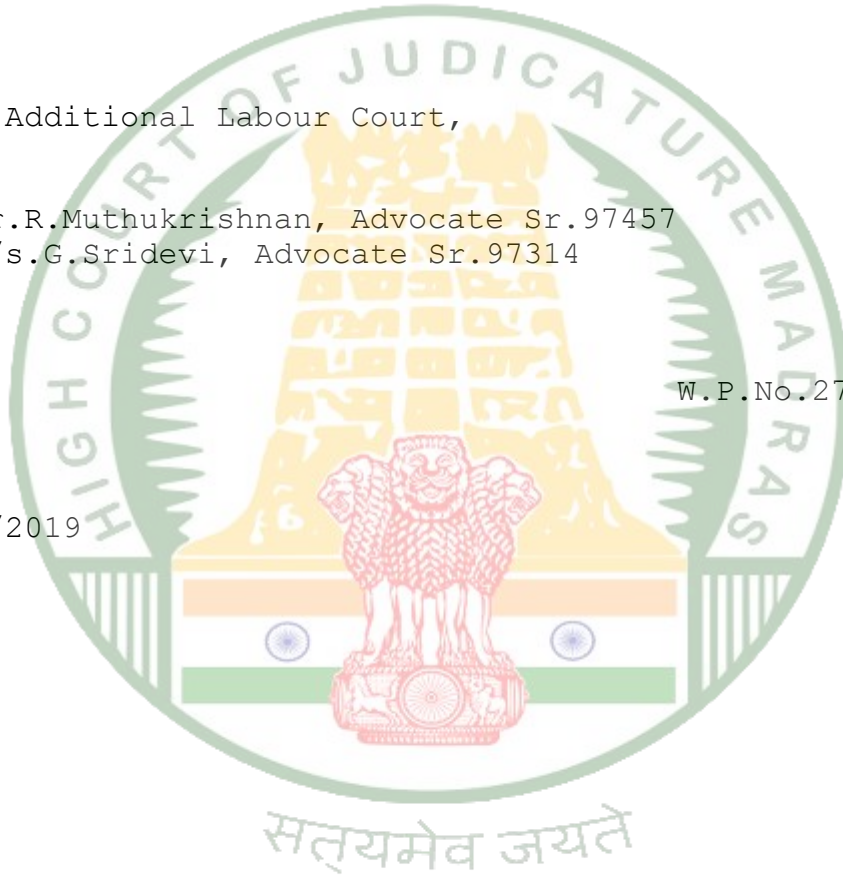
To

The Third Additional Labour Court,
Chennai.

+lcc to Mr.R.Muthukrishnan, Advocate Sr.97457
+lcc to M/s.G.Sridevi, Advocate Sr.97314

W.P.No.27541 of 2018

pvs[col]
srg 27/12/2019



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