

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2020

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 13295 of 2020
and
W.M.P. No. 16432 of 2020

The Management,
KBS Limited,
No. 151, Mettupalayam Post,
NSN Palayam Post,
Coimbatore - 641 031,
Rep. by its Head HR - Mr. M.Manickam

... Petitioner

-vs-

S.R.Sridharan

... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the Additional Labour Court, Coimbatore in I.A. No. 7 of 2020 in I.D. No. 8 of 2017 and quash its order dated 10.09.2020.

For Petitioner : Mr. S.Ravindran, Senior Counsel
for Mr. S.Bazeerahamed

For Respondent : Mr. V.Ajoy Khose

O R D E R

(through video conference)

Heard Mr. S.Ravindran, Learned Senior Counsel for the Petitioner and Mr. V.Ajoy Khose, Learned Counsel for the Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner had terminated the services of the Respondent in its establishment by an order dated 19.09.2016 against which the Respondent has raised an industrial dispute in I.D. No.8 of 2017 before the Additional Labour Court, Coimbatore (hereinafter referred to as the 'Labour Court' for short). After the witnesses of the Respondent and the Petitioner were examined, the Respondent had advanced arguments on 13.02.2020 and the arguments of the Petitioner which commenced on 07.03.2020 had been concluded on 06.07.2020. The reply arguments of the Respondent was heard on 17.07.2020 and the matter was

reserved for passing award on 13.08.2020. At that stage, the Petitioner had filed an application in I.A. No. 7 of 2020 before the Labour Court to re-open the case. Though it had been mentioned in the affidavit filed in support of that application that the Petitioner only recently came to know of vital evidence in support of his case, it was conspicuously bereft of requisite details. The Labour Court in its order dated 10.09.2020 in I.A. No. 7 of 2020 in I.D. No. 8 of 2017 was of the view that in the absence of even mentioning as to what was the nature of additional evidence that the Petitioner intends to adduce in the matter, it appeared that the intention was only to protract the litigation, and dismissed that application. Aggrieved thereby, the Petitioner has filed this Writ Petition challenging that order.

3. Though there is no infirmity in the reasons mentioned in the impugned order passed by the Labour Court refusing to re-open the evidence, Learned Senior Counsel appearing for the Petitioner submits that further applications have been filed to produce additional documents and examine the Deputy Manager in the HR Department, viz., Mrs. G.Jayanthi, as another witness to buttress the claim of the Petitioner that the Respondent is not a workman inasmuch as had not performed any such duties and that his pay and other benefits were different and unconnected to those payable to 'workmen' under the statutory settlement reached under the Industrial Disputes Act, 1947. After serving Learned Counsel for the Respondent, a copy of those applications have also been produced before this Court. Having due regard to the material nature of additional evidence that the Petitioner intends to adduce, which has been now disclosed, this Court is of the considered view that it would subserve the interests of justice and shorten litigation if the evidence of the Petitioner before the Labour Court is permitted to be re-opened. Though obvious, it is made clear that the Respondent is also not precluded from seeking to re-open his evidence, if such necessity arises on account of the additional evidence produced by the Petitioner before the Labour Court.

4. In that view of the matter, the impugned order dated 10.09.2020 in I.A. No. 7 of 2020 in I.D. No. 8 of 2017 is set aside and that application is ordered. It is represented that both sides would attend the hearing before the Labour Court on the next hearing on 09.10.2020 when the Labour Court shall take up the applications for additional evidence filed by the Petitioner and pass orders thereon. It is also informed that both parties would fully co-operate for expeditious disposal of the matter and there shall be atleast one effective hearing every week showing progress of the case, so that I.D. No. 8 of 2017 could be finally decided by the Labour Court before 31.12.2020. Though obvious, it is made clear that no view has

been expressed by this Court on the correctness or otherwise on the merits of the contentions of the parties in the matter.

5. In the result, the Writ Petition is allowed on the aforesaid terms. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar (CS-IV)

//True copy//

Sub Assistant Registrar

vjt/dm

To

The Judge,
Additional Labour Court,
Coimbatore.

+1cc to Mr.V.Ajoy Khose, Advocate SR.No.32019

W.P. No. 13295 of 2020

SAI (CO)
GMY (05/10/2020)



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