

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.01.2020

CORAM :

The Hon'ble Mr.A.P.SAHI, THE CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE SUBRAMONIUM PRASAD

W.A.No.3367 of 2019
and C.M.P.No.21622 of 2019

Krishnamurthy Sivakumar .. Appellant/Petitioner

-vs-

1.The Commissioner of Labour,
Office of the Commissioner of Labour,
Chennai 600 006.

2.Ms.T.Shanthi,
The Special Deputy Commissioner
of Labour, Office of the Commissioner
of Labour, The Tamil Nadu Shops and
Establishment Act, Chennai 600 006.

3.The Management of Cognizant Technology
Solutions Private Limited, Rep. by its
Vice President - Human Resources.

.. Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent
against the order dated 09.09.2019 passed in W.P.No.26925 of
2019 on the file of this Court.

Prayer in Writ Petition No.26925 of 2019: Petition filed Under
Article 226 of the Constitution of India, praying to issue a
Writ of Mandamus, directing the 1st respondent to transfer the
proceedings pending before the 2nd respondent bearing
T.N.S.E.No.01/01/2016 to some other competent authority for
expeditious adjudication and disposal within a reasonable time
frame to be fixed by this Court.

For Appellant

: Mr.N.L.Rajah

Sr. Counsel

for Mr.S.Mahesh Kumar

For Respondents

: Mr.Anand Gopalan

for M/s.T.S.Gopalan & Co.

for R-3

JUDGMENT
(Delivered by The Hon'ble Chief Justice)

We have heard the learned counsel for the parties at length.

2.Learned Senior Counsel for the appellant prays for withdrawing the appeal unconditionally.

3.Learned counsel for the third respondent has invited the attention of the Court to the order passed by the Bench on 06.11.2019. The same is extracted hereinunder:-

"When the matter is called today, the learned Counsel for the appellant seeks permission of this Court to withdraw the appeal stating that an order has been passed by the appellate authority in T.S.E.No.1/01/2016 on 18.10.2019.

2.However, Mr.Anand Gopalan, learned Counsel appearing for the third respondent objected the withdrawal of the appeal stating that the appellant has got a favourable order from the very same authority against whom the appellant made allegations in the earlier hearing and therefore, he intends to withdraw the appeal. Moreover, he pointed out that in the vacation Court, there was an oral observation made by the Court, not to pass any order and inspite of the same, the appellate authority has passed an order. However, the learned Counsel for the appellant denied the same.

3.It is seen from the records that when the matter was argued on 17.10.2019, Mr.N.L.Raja, learned Counsel appearing for the appellant pleaded for transfer of the case from the very same authority who passed the order stating that bundle was missing with the authority and inspite of the absence of the bundle, hearing took place and therefore, no justice would be done if the same officer is allowed to pass orders. The said submission was recorded and the matter was adjourned today.

4.In the meantime, the appellate authority has passed an order in favour of the appellant. Hence, Mr.Anand Gopalan, learned Counsel for the third respondent would submit that there is a serious malpractice in the order passed by the authority. Therefore, considering the allegations made by the appellant in the earlier hearing and the way in which the order has now come to be passed by the appellate authority, this Court directs the Registrar (Vigilance), High Court of Madras to seize all the records including the notes of the stenographer and the hard disk in which the word file has been stored.

Further, some sample copies of the orders passed by the appellate authority in similar appeals shall also be seized.

Call the matter on 08.11.2019."

3.The contention of the learned counsel for the third respondent is that pursuant to the aforesaid directions, the records have been made available with the Registrar-Judicial of the High Court.

4.He also contends that there are certain allegations which deserve to be investigated, inasmuch as it is only after this writ appeal was filed, that an order of transfer of proceedings came to be passed by the officer in question against whom allegations had been made and therefore, the veracity and probative value of that order is yet to be tested on the basis of the records which are lying with the Registrar-Judicial. In view of this, he submits that even if the appellant is praying for withdrawal of the appeal, the rights of the third respondent should be kept preserved to approach the appropriate forum in respect of any such allegations that have been made against the officer concerned.

5.Having considered the submissions raised, we accept the request of the learned Senior Counsel for the appellant to withdraw the Writ Appeal, which is hereby dismissed as withdrawn.

6.We also direct the Registrar-Judicial to maintain the xerox copy of the entire proceedings and send the originals back to the office concerned from where it had been received. The original records and the CD as well as whatever that has been retrieved by the Registrar, an inventory thereof shall be prepared and the entire records shall be remitted back to the office concerned to be preserved by it with a due receipt of the same. In the event any party chooses to rely on any document or otherwise, it shall be without prejudice to their rights to contest the correctness or otherwise of the proceedings before the officer.

The Writ Appeal is, accordingly, dismissed as withdrawn. There shall be no order as to costs. Consequently, C.M.P.No.21622 of 2019 is also dismissed.

Sd/-

Assistant Registrar (Insp-Cell)

//True Copy//

Sub Assistant Registrar

sra

To

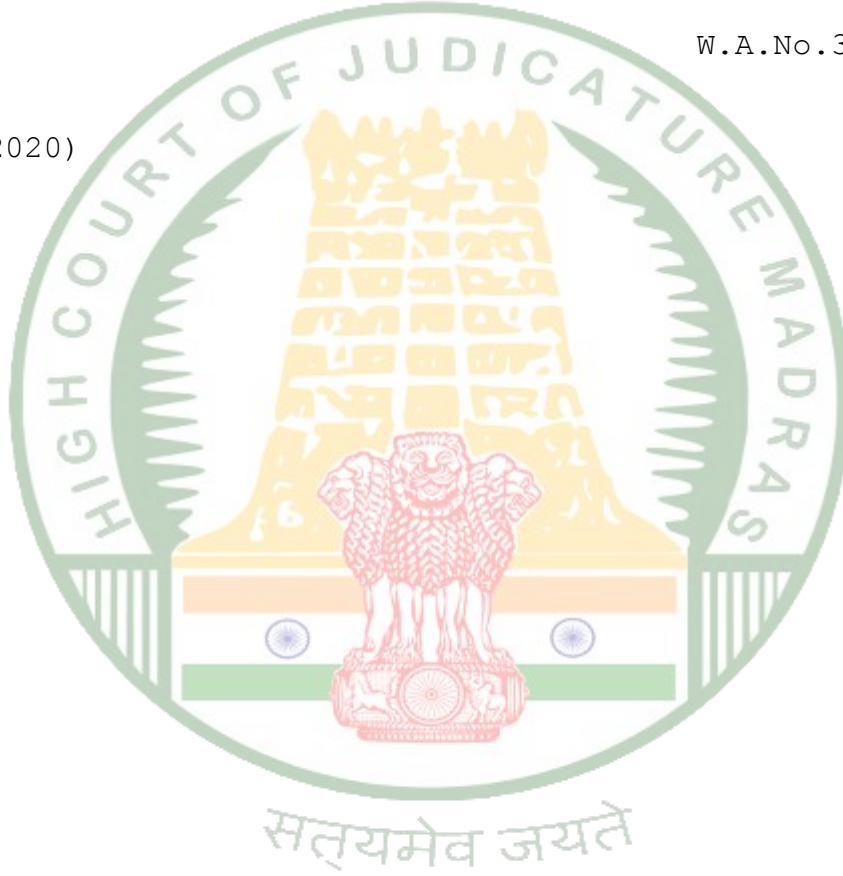
1.The Commissioner of Labour,
Office of the Commissioner of Labour,
Chennai 600 006.

2.The Registrar (Judicial),
High Court, Madras.

+lcc to Mr.T.S.Gopalan & Co, Advocate, S.R.No. 2466
+lcc to Mr.Rohini Ravikumar, Advocate, S.R.No. 2882

W.A.No.3367 of 2019

MR(CO)
GN(27/01/2020)



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