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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2021

CORAM

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

W.P. NO. 24577 OF 2012

AND

M.P. NO. 1 OF 2012

AND

M.P. NO. 1 OF 2014

The Director of Industries and Commerce,
Government of Tamil Nadu,
State Government,
Chennai.

... Petitioner

-VS-

G.Padmavathi

... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the relevant records relating to the exparte order passed in C.P. 228 of 2000, dated 31.10.200 by the II Additional Labour Court, Chennai and quash the same.

For Petitioner : Mr. Harsha Raj,
Counsel appearing for Government

For Respondent : Mr. A.Nagarathinam



O R D E R
(through video conference)

WEB COPY Heard Mr. Harsha Raj, Learned Counsel representing the Petitioner and Mr. A.Nagarathinam, Learned Counsel for the Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Respondent, who had been temporarily employed in the Art Pottery Unit of the Petitioner for making clay toys and dolls from 06.09.1965 onwards, claims to have been laid off for want of work on 26.05.1979 in violation of Section 25-M(8) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the I.D. Act' for short). According to the Respondent, she had been prematurely retired from service before attaining the age of superannuation and in such circumstances, she was entitled to wages for the period from 26.05.1979 to 31.03.2000 as per the particulars shown below:-

Period	Amount payable	No. of Months	Total
26.05.1979 to 31.12.1985	Rs. 1,000/-	78	Rs. 78,000/-
01.01.1986 to 31.12.1995	Rs. 3,000/-	120	Rs. 3,60,000/-
01.01.1996 to 31.03.2000	Rs. 5,000/-	51	Rs. 2,55,000/-
		Total	Rs. 6,93,000/-

The Respondent had filed a Claim Petition in C.P. No. 228 of 2000 before the II Additional Labour Court, Chennai (hereinafter referred to as 'the Labour Court' for short) for computation of monetary benefits for the said sum of Rs. 6,93,000/-. It appears from the order dated 31.10.2000 in C.P. No. 228 of 2000 passed by the Labour Court that the Petitioner had not filed any counter-statement and the Labour Court proceeded to pass an exparte award granting the sum of Rs. 6,93,000/- claimed by the Respondent from the Petitioner. Long thereafter, the Petitioner made an application under Rule 48(2) of the Tamil Nadu



Industrial Disputes Rules, 1958, to set aside that exparte award along with an application in I.A. No. 209 of 2007 under Section 5 of the Limitation Act, 1963, to condone the delay of 1752 days in filing the same. The explanation of the Petitioner for that delay was that its Art Pottery Unit has been handed over to Tamil Nadu Ceramics Limited (TACEL), which was later closed, and all its litigation had been sent to Tamil Nadu Small Industries Corporation (TANSI) in terms of G.O. Ms. No. 44, Small Industries Department dated 20.09.2000. The Petitioner claims to have come to know about the exparte award dated 31.10.2000 in C.P. No. 228 of 2000 only when the Revenue Inspector of Tahsildar Office, Mambalam-Guindy, Chennai made enquiry on 25.07.2005 with the Petitioner and steps were then taken for filing the applications to set aside that exparte award and to condone the delay in that regard. The Labour Court by order dated 02.07.2012 dismissed the application in I.A. No. 209 of 2007 by holding that such explanation for the delay in filing the application to set aside the exparte award could not be accepted. This Writ Petition challenges the exparte award dated 31.10.2000 in C.P. No. 228 of 2000 passed by the Labour Court.

3. It requires to be straightaway noticed that the exparte award dated 31.10.2000 in C.P. No. 228 of 2000 passed by the Labour Court does not contain any reason whatsoever. The Labour Court has merely recorded that the witness was examined, exhibits were marked, records were perused, the claim was proved and the Respondent was entitled to the relief sought. It must, at once, be pointed out that the Division Bench of this Court in M/s. Meenakshisundaram Textiles -vs- M/s.Valliammal Textiles Ltd. [(2011) 3 CTC 168] after referring to the decisions of the Hon'ble Supreme Court of India in Swaran Lata Ghosh -vs- H.K.Banerjee [(1969) 1 SCC 709], State of Tamil Nadu -vs- S.Thangavel [(1997) 2 SCC 349], Balraj Taneja -vs- Sunil Madan [(1999) 8 SCC 396], Lakshmi Ram Bhuyan -vs- Hari Prasad Bhuyan [(2003) 1 SCC 197], Ramesh Chand Ardawatiya -vs- Anil Panjwani [(2003) 7 SCC 350], and State of Punjab -vs- Bhag Singh [(2004) 1 SCC 547], has reiterated the settled legal position that even in the absence of the Defendant contesting in a suit, the Court is legally bound to give reasons for granting the claim of the Plaintiff and in the absence of such adjudication of the claim, the decree passed cannot be sustained in law. There is no discussion with reference to any of the documents produced or



from the deposition of the witness in the award passed by the Labour Court as to how the Respondent was entitled to the relief sought as prayed for the mere asking and as such, the same cannot stand judicial scrutiny. At the same time, it cannot also be lost sight of the fact that the Petitioner has rather adopted a very casual and cavalier approach in contesting the proceedings before the Labour Court and the explanation for the delay in taking steps to set aside the exparte award is seeming desultory.

4. In that backdrop, it would subserve the interests of justice to impose the condition that the Petitioner shall pay a sum of Rs. 10,000/- (Rupees Ten Thousand only) by way of Demand Draft towards costs to the Respondent under written acknowledgment and report before the Labour Court by 06.10.2021 for setting aside that exparte order, failing which the impugned order shall stand automatically confirmed without any further reference to this Court. In the event of the Petitioner complying with the said condition within that stipulated time limit, the exparte award dated 31.10.2000 in C.P. No. 228 of 2000 passed by the Labour Court shall be treated as having been set aside, and the Claim Petition in C.P. No. 228 of 2000 shall be restored to its file, and the matter shall be listed for hearing on 01.11.2021 before the Labour Court and the Petitioner shall peremptorily file its Counter in C.P. No. 228 of 2000 on that date. If the Labour Court is not in a position to take up the matter on the said date, the date to which it is adjourned shall be informed in the prescribed manner. The parties or their respective Counsel shall attend the hearing on the said date as well as on the subsequent dates to which it is adjourned and extend their co-operation for the early disposal of the matter. After affording full opportunity of hearing to all parties concerned following the prescribed procedure in consonance with the principles of natural justice, the Labour Court shall deal with each of the contentions raised and pass reasoned orders on merits and in accordance with law and communicate the decision taken to the concerned parties under written acknowledgment. It shall be ensured that there is atleast one effective hearing every week showing progress of the case and monthly reports in that regard shall be sent to the Registrar (Judicial) of this Court till the matter is finally disposed.



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In the result, the Writ Petition is ordered on the aforesaid terms. Consequently, the connected Miscellaneous Petitions are closed. No costs.

Sd/-

Assistant Registrar(CS-VII)

// True Copy //

Sub Assistant Registrar

kv/vjt

To

1. The II Additional Labour Court,
Chennai.
2. The Director of Industries and Commerce,
Government of Tamil Nadu,
State Government,
Chennai.
3. The Registrar(Judicial),
High Court, Madras.

+1cc to Mr.G.Pugazhanthi, Advocate, S.R.No.42612

W.P. No. 24577 of 2012

BS(CO)
RLP(23/09/2021)