

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2021

CORAM :

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
AND
THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.A.NO.1043 OF 2020

1. The Divisional Railway Manager,
Southern Railway,
Salem Division, Salem.
 2. The Senior Divisional Mechanical Engineer,
Southern Railway,
Divisional Office, Mechanical Branch,
Salem.
- ... Appellants

Vs

M/s.Premier Garment Processing,
Rep.by its Proprietor Ibrahim Shah,
Having Office at No.29,
Govindan Street, T.Nagar,
Chennai - 600 017.

... Respondent

Prayer: Appeal filed under Clause 15 of the Letters Patent against the order dated 20.02.2020 passed in W.A.No.14412 of 2017.

W.A.No.14412 of 2017:-

Writ Petition filed under Article 226 of the Constitution of India, for Writ of Certiorarified Mandamus to call for the records relating to the proceedings of the 2nd Respondent herein bearing Ref.No.SA/M 271/Linen/12674/12656, dated 22.11.2016 and quash the same and consequently, direct the 2nd Respondent herein to forthwith pay to the petitioner the sum of Rs.38,41,853.50.

For Appellants : Mr.P.T.Ramkumar

For Respondent : Mr.Richardson Wilson
for M/s.Wilson Associates

JUDGMENT
(Delivered by M.M.SUNDRESH, J.)

What has been appealed against is only an order of remand.

2. Incidentally, the learned Single Judge directed the appellants to return the amount of Rs.38,41,853.30. The following is the operative portion of the order passed:

"28. In the result, the impugned order dated 22.11.2016 in proceedings Ref.No.SA/M 271/Linen/12674/12656 on the file of the second respondent is hereby quashed and the matter is remanded back to the second respondent for fresh consideration and the second respondent shall pass final orders after affording sufficient opportunity to the petitioner by adhering to the principles of natural justice as stated supra and pass final orders within a period of eight weeks from the date of receipt of a copy of this order. In view of the quashing of the impugned order, the respondents are directed to pay the petitioner a sum of Rs.38,41,853.30 or the actual amount deducted by them from and out of the petitioner's bills within a period of four weeks from the date of receipt of a copy of this order. However, it is made clear that once the penalty amount is determined in accordance with this order, the respondents are granted liberty to deduct the determined penalty amount from and out of the bills payable to the petitioner in the near future."

3. Considering the limited scope of the appeal which borders on the direction to the appellants to pay a sum of Rs.38,41,853.30, which was deducted by them, we asked both the counsel to get instructions as to whether the respondent/writ petitioner can be directed to give bank guarantee and on such satisfaction of the same, the money can be released, subject to the final adjudication on remand in the enquiry.

4. Today, when the matter is taken up for hearing, both the counsel submitted that such yardstick can be adopted awaiting the final adjudication as directed by the learned Single Judge.

5. In such view of the matter, the order of the learned Single Judge stands modified to the effect that on the respondent/writ petitioner, furnishing the bank guarantee for a sum of Rs.38,41,853.30 within a period of two weeks from the

date of receipt of a copy of this judgment, the appellants shall pay the said amount without prejudice to the decision to be made in the enquiry as ordered by the learned Single Judge. The payment will have to be made by the appellants subject to the compliance of the respondent/writ petitioner within a further period of two weeks.

5. The writ appeal stands disposed of accordingly. It has also been agreed by both sides, particularly the respondent/writ petitioner that the bank guarantee would be kept alive till the completion of the enquiry followed by the final decision. No costs. Consequently, connected C.M.P.No.12902 of 2020 is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

ssm

To

1. The Divisional Railway Manager,
Southern Railway,
Salem Division, Salem.
2. The Senior Divisional Mechanical Engineer,
Southern Railway,
Divisional Office, Mechanical Branch,
Salem.

+1cc to Mr.P.T.Ramkumar, Advocate, S.R.No.24559

W.A.No.1043 of 2020

RD(CO)
CS/22/06/2021

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