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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.5833 of 2017
and W.M.P.No.6247 of 2017

The Management of Premier
Spinning & Weaving Mills Pvt. Ltd.
Rep by Senior General Manager
(Personnel & Administration)
K.Sathiamoorthy, Belathur Post,
Hosur- 636 124. ... Petitioner

Vs.

- 1 The Presiding Officer,
Labour Court, Salem.
- 2 S.Mariappan
S/o.P.Samiannan,
Sozhianur, Mulakaadu Post,
Thoppur (Via),
Dharmapuri- 636 452 ... Respondents

PRAYER:

Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the first respondent in I.A. No.355/14 in I.D. No.68/13 and quash its order dated 16.11.2016 and direct the first respondent to frame a preliminary issue as to whether the dispute raised by the second respondent was barred by limitation and pass a preliminary order thereof before taking up the case of merits.

For Petitioner : Mr.S.Ravindran, Sr. Advocate
for Mr.S.Bazeer Ahamed

For Respondent No.1 : Labour Court
For Respondent No.2 : Mr.R.M.D.Nasrullah for
Mr.K.V.Shanmuganathan

O R D E R

The petitioner Management raised objection on the ground of limitation under Section 2(A) Sub Section 3 of Industrial



Dispute Act was denied to be taken as preliminary issue by the Labour Court, which had necessitated them to file the present writ petition.

2. The Labour Court, though placed reliance on the decision of this Court in Management of Ashok Layland vs. Presiding Officer, Labour Court and others [2016(151) FLR 509] and had observed that the issue of limitation requires to be taken as a preliminary issue, had however referred to the ultimate portion of the judgment cited supra, and held that the question of limitation can be considered along with other issues.

3. This Court in Management of Ashok Layland case (supra), had clearly indicated that the plea of limitation should be taken only as a preliminary issue, for which purpose it had placed reliance on the case in Srinivasa Rice Mills and others vs. E.S.I. Corporation [2007 (112) FLR 233 (SC)]. The first respondent/Labour Court while passing the present impugned order dated 16.11.2016, had not properly considered the order of this Court in Ashok Leyland case (supra) and therefore, the decision to take up the limitation issue along with other issues is not proper. This Court is also of the view that once the plea of limitation is raised among other objections, the Labour Court concerned is required to take up the plea of limitation as a preliminary issue only and decide the same.

4 In the light of the above observations, the impugned order passed by the Presiding Officer, Labour Court, Salem, dated 16.11.2016 is set aside. The matter is remanded back to the Presiding Officer, Labour Court, Salem with a direction to take up the plea of limitation raised by the petitioner/Management as a preliminary issue and decide the same in accordance with law, within a period of three months from the date of receipt of copy of this order.

5. In the result, the writ petition stands allowed accordingly. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar



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To
The Presiding Officer,
Labour Court, Salem.

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