

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.04.2021

CORAM

THE HON'BLE MR. JUSTICE M.M.SUNDRESH
and
THE HON'BLE MS. JUSTICE R.N.MANJULA

W.A. No.4332 of 2019
and
C.M.P No.27680 of 2019

Tamil Nadu Trade Union Centre,
Register No.1324/VLR,
Thiruvallur Street,
Alamkuppam Village,
Ambur Taluk, Vellore District.
Represented by General Secretary

...Appellant

Vs.

1.The Presiding Officer,
The Industrial Tribunal,
Chennai.

2.The Management,
N.M.Zackrian & Co., Shoe Division,
(FD) Jameel and Bottom),
Gudiyatham Road, Thuthipet Village and post
Ambur Taluk, Vellore District.

....Respondents

Writ Appeal is preferred under Clause 15 of the Letters Patent against the order dated 16.10.2019 made in W.P.No.12380 of 2017. Writ petition filed under Article 226 of the constitution of India praying to issue a writ of certiorarified Mandamus, to call for the records in I.A.No. 83 to 2017 in I.D.No. 5 of 2013 dated 13.04.2017 on the file of Industrial Tribunal Chennai the first Respondent herein and quash the same as illegal and Direct the Second Respondent to produce the documents referred in the Schedule in I.A.No. 83 of 2017 in I.D.No. 5 of 2013 on the file of Industrial Tribunal Chennai.

For Appellant : Mr.R.Sankarasubbu

For 2nd Respondent : Mr.M.Mariappan for
Mr.A.V.Suresh

R1 : Tribunal

JUDGMENT

(Judgment of the Court was made by M.M.SUNDRESH,J.)

This writ appeal has been preferred by the appellant aggrieved over the dismissal of the writ petition filed seeking to set aside the order passed in I.A.No.83 of 2017 in I.D.No.5 of 2013 dated 13.04.2018 by the Industrial Tribunal, Chennai.

2.The appellant raised the dispute in I.D.No.5 of 2013 on the file of the Industrial Tribunal, Chennai. The dispute is with respect to the demand of certain allowances viz., Dearness Allowance, Travelling Allowance and the House Rent Allowance from the Management. After completion of the pleadings, documents have been marked. On behalf of the appellant, three witnesses viz., W.W.1 to W.W.3 were examined and documents viz., W1 to W14 were marked and on behalf of the respondents MW1 has been fully examined and M1 to M7 were marked and the case had been posted for arguments from 19.01.2017 onwards. At that point of time, an application in I.A.No.83 of 2017 in I.D.No.5 of 2013 was filed seeking to invoke Rule 36 of the Tamil Nadu Industrial Disputes Rules, 1958 for the production of the following documents.

- "1.License books under Sub Rule 6 of Rule 4 of the Tamil Nadu Factories Rules, 1950 with latest amendments.
- 2.Register maintained under Rule 25(4) of the TN Industrial Disputes Rules 1958 from January 2008 to till date.
- 3.Appointment Registers (service card) maintained in accordance with the Industrial Employment (standing order) Act, 1946 from January 2008 to till date.
- 4.Attendance Register maintained in accordance with the Factories Act, 1948 from January 2008 to till date.
- 5.Registers denoting in and out of workers maintained in the main gate as well as respective divisions from January 2008 to till date.
- 6.Production Register maintained in the respective sections from Jan, 2008 to till date.
- 7.Payment Register maintained in accordance with the Payments of Wages Act, 1936 as well as Minimum Wages Act, 1948.
- 8.Register of Form 1 and Form 2 maintained in accordance with the TN Industrial Establishments (Conferment of Permanent Status to Workmen) Rules, 1981 from Jan. 2008 to till date.

9.Register Form 1 and Form 2 maintained in accordance with the TN Payment of Subsistence Allowances Rules, 1981 from Jan. 2008 to till date."

3.The following are the averments forming basis of the aforesaid order.

"3.I submit that the respondent management seldom approach this above industrial dispute with clean hand and playing a game of hide and seek either before the conciliation proceedings or before this Honourable Industrial Tribunal in filing/producing the relevant documents connected to the respondent management.

4.I also submit that the respondent management known for its closed minded attitude and therefore suppressed all material facts in all connected counters as well as in oral evidence and intensively hide the documents before the eye of law and as such respondent management in constant hesitation of producing the documents which ought to be produced in interest of law."

4.The Tribunal dismissed the application having found that there is absolutely no connection between the documents sought for and pleaded and incidentally, it has been held that roving inquiry is not permissible under law. While passing the orders, the Tribunal has taken note that the case has reached the stage of disposal. The writ petition in W.P.No.12380 of 2017 was filed before the learned single Judge, who concurred with the order passed by the Industrial Tribunal by an order dated 16.10.2019 and hence, the present writ appeal.

5.Mr.R.Sankarasubbu, learned counsel for the appellant, submitted that in law, these documents are required to be produced as the appellant is entitled to rely upon the same.

6.The learned counsel for the respondent submitted that neither before the Tribunal nor before this Court the relevancy has not been shown. The interlocutory application has been filed belatedly with the sole intention of dragging on the matter.

7.Having heard the learned counsel appearing for both sides, we do not find any reason to interfere with the order passed. We have also extracted the relevant paragraphs of the affidavit filed seeking production of documents. These paragraphs do not indicate any reason whatsoever with respect to the relevancy and the need for the production of the documents. The interlocutory

application has also been filed belatedly when the proceedings are pending from 2013 onwards.

8. In such view of the matter, we do not find any error warranting interference. Accordingly, the writ appeal stands dismissed. Taking into consideration of the fact that the dispute is pending consideration for more than eight years as of now, we direct the Industrial Tribunal, Chennai, to dispose of the same within a period of four months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is also dismissed.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

raa

To

The Presiding Officer,
The Industrial Tribunal,
Chennai.

+1 cc to M/s. N. Chinnaraj, Advocate Sr.22850

+1 cc to M/s. R. Sankarasubbu, Advocate SR.23455

W.A.No.4332 of 2019

JP-II (CO)
EU 8.6.2021

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