



W.P Nos.11794 and 12429 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 16.12.2022

CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU

W.P.Nos.11794 and 12429 of 2010  
and M.P.No.1 of 2010

Management,  
M/s Om Sakthi Associates,  
Reptd by G.Pandiyan,  
OM Sakthi Towers,  
No.163, Old Nos.104 and 107,  
Anna Sala, Chennai-600 002

.... Petitioner in both the writ petitions

vs

1.Manimuthu

2. The Presiding Officer,  
II Additional Labour Court,  
Chennai-600 104

... Respondents in both the writ petitions

Writ Petitions filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus to call for the records pertaining to the Award dated 17.12.2008 made in I.D.No.181 of 2008 and I.A.No.114 of 2009 in I.D.No.181 of 2008 dated 17.12.2009 on the file of the second respondent and quash the same and consequently remand ID Nos.181 of 2008 and I.A.No.114 of 2009 for fresh disposal after giving the opportunity to the petitioner.

For Petitioner : Mr.U.Karunakaran

For Respondents : Mr.K.Manimaran  
For R.1



WEB COPY



W.P Nos.11794 and 12429 of 2010

**R.2 - Court  
COMMON ORDER**

These Writ Petitions have been filed challenging the exparte award passed by the Labour Court and directing the petitioner Management to reinstate the 1<sup>st</sup> respondent herein in service with backwages, continuity of service and all other attendant benefits and dismissing the Interlocutory Application filed by the petitioner seeking to set aside the exparte award passed by the Labour Court respectively.

2. Heard the learned counsel for the petitioner and the learned counsel appearing for the first respondent.

3. The case of the petitioner Management is that the 1st respondent was working as an Assistant in Om Sakthi Associates, the petitioner's partnership Firm. Due to heavy loss, the petitioner Firm was constrained to close the business and at the time of closing the business, there were 8 employees in the Firm including the 1<sup>st</sup> respondent and all the eight workers were settled amicably with their due payments including the 1<sup>st</sup> respondent. The 1<sup>st</sup> respondent left the Firm in May 2004 after receiving three months salary by way of compensation. The 1<sup>st</sup> respondent, all of a sudden, sent a notice dated 20.11.2007 to the petitioner Management through his counsel for reinstatement and also for backwages. The petitioner replied, by letter dated



W.P Nos.11794 and 12429 of 2010

WEB COPY

27.05.2008, condemning the action of the 1<sup>st</sup> respondent for wrong claim with ulterior motives. But the 1<sup>st</sup> respondent filed an Industrial Dispute before the Labour Court, Chennai. The petitioner came to know about the filing of I.D. only in the first week of June, 2009. Immediately, the petitioner rushed to Court and on verification, it was found that the notice of the counsel was purposely sent to the wrong address stating as 'Opp. to L.I.C.'. The petitioner came to understand from the Court record that notice was served to one 'Om Sakthi Medi Centre' which is in the same building and as on that date, Om Sakthi Associates, was not in existence and no employees were working. The last income tax return was filed by the petitioner Firm in the year 2004. No notice was served on the petitioner Firm. Therefore, the petitioner could not be present and agitate the I.D. The petitioner was set exparte and the I.D. was allowed and an exparte award was passed. Therefore, the petitioner filed I.A.No.114/2009 before the II Additional Labour Court, Chennai to set aside the exparte award passed on 17.12.2008. However, no petition to condone the delay has been filed on the pretext that there is no delay from the date of knowledge. But the said I.A. was dismissed vide order dated 17.12.2009. Hence, the award dated 17.12.2008 is liable to be quashed and consequently, matter has to be remanded back for fresh disposal after giving opportunity to the petitioner to contest the case on merits.



W.P Nos.11794 and 12429 of 2010

WEB COPY

4. Considering the submissions made on either side and on perusal of the records, this Court is of the view that the matter has to be remanded back to the Labour Court for fresh consideration. It is the specific contention of the learned counsel for the petitioner that no notice was received by the petitioner. It is also seen that the notice of the counsel was sent to the wrong address as 'Opp. to L.I.C.' and that the notice was served to one 'Om Sakthi Medi Centre' which is in the same building and as on that date, Om Sakthi Associates, was not in existence. Therefore, this Court is inclined to set aside the exparte award passed by the Labour Court. Accordingly, the exparte award passed by the II Additional Labour Court, Chennai, in I.D.No.181/2008 is hereby set aside and I.A.No. 114 of 2009 is allowed. The matter is remanded back to the Labour Court with a direction to consider the case afresh and pass orders in accordance with law within a period of six months from the date of receipt of a copy of this order. Both the Writ Petitions are disposed of accordingly. No costs.

16.12.2022

Index:Yes/No  
Speaking/Non-speaking order  
vsi

h

4/6



W.P Nos.11794 and 12429 of 2010

To  
WEB COPY

The Presiding Officer,  
II Additional Labour Court,  
Chennai-600 104



WEB COPY



W.P Nos.11794 and 12429 of 2010

**J.NISHA BANU,J.**

vsi

W.P.Nos.11794 and 12429 of 2010

16.12.2022