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W.P. No. 10406 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2022

CORAM

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

W.P. No. 10406 of 2019

A.Vijayasankar

... Petitioner

-VS-

The Management
Mohib Shoes Private Limited
"B" Unit, M.C. Road
Vinnamangalam
Minnur Post
Ambur, Vellore District.

... Respondent

Prayer :- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling records relating to the award dated 17.04.2017 in I.D. No. 30 of 2015 from the Principal Labour Court, Vellore and quash the same and direct the Respondent Management to reinstate the Petitioner in service with full backwages, continuity of service and will all other attendant service benefits.

For Petitioner : Mr. S.Ravi

For Respondents : Ms. S.Thamizharasi



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ORDER

WEB COPY Heard Mr. S.Ravi, Learned Counsel for the Petitioner and Ms. S.Thamizharasi, Learned Counsel for the Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner, who had been employed with the Respondent, had been terminated from service on 01.04.2014 and had raised an industrial dispute in I.D. No. 30 of 2015 before the Principal Labour Court, Vellore (hereinafter referred to as 'the Labour Court' for short) invoking Section 2-A of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the I.D. Act' for short).

3. The Labour Court by an order dated 18.11.2015 in the application in I.A. No. 163 of 2015 filed by the Respondents had held that the domestic enquiry was invalid as it was in violation of the principles of natural justice and thereafter, both parties had led their evidence in the matter and by award dated 17.04.2017, the industrial dispute was dismissed. Aggrieved thereby, the Petitioner has filed this Writ Petition.

4. Learned Counsel for the Petitioner contends that inasmuch as the Labour Court had initially held that the domestic enquiry had not been properly



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conducted, the burden of proof was on the Respondent to prove the charges, but the Labour Court without affording any opportunity after recording evidence of the Respondent has held as if the Petitioner has not rebutted the charges by acceptable evidence.

5. It is borne out from the proceedings of the Labour Court that after completion of the examination of the witnesses of the Respondent, the Petitioner had not led any evidence to contradict the same, which has resulted in denial of opportunity to him to disprove the charges levelled against him by the Respondent. Viewed from that perspective, the impugned award is set aside and the matter is remitted to the Labour Court to enable the Petitioner to lead evidence in respect of the charges levelled against him taking into account the evidence of the Respondent in that regard.

6. In order to expedite disposal of the matter, the industrial dispute in I.D. No. 30 of 2015 shall be listed for hearing before the Labour Court at 11.00 a.m. on 18.04.2022 when the Petitioner and the Respondent shall appear in person or through their authorized representative. If the Labour Court is not in a position to take up the matter for hearing on that date, it shall inform all parties concerned of the date of hearing to which it is adjourned in the prescribed



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manner. It shall be ensured by the Labour Court that there is atleast one effective hearing every week showing progress of the case, that full opportunity of hearing is afforded to all parties concerned following the prescribed procedure in consonance with the principles of natural justice, that reasoned orders are passed dealing with each of the contentions raised by them on merits and in accordance wit law, that the decision taken is communicated to the concerned parties under written acknowledgment and that monthly reports in that regard shall be sent to the Registrar (Judicial) of this Court till the matter is finally disposed. Though obvious, it is made clear that while deciding the industrial dispute, the Labour Court shall not be inhibited or influenced by the impugned order, which has been set aside.

In fine, the Writ Petition is ordered on the aforesaid terms. No costs.

03.03.2022

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Index: Yes/No

Note: Issue order copy on 25.03.2022.



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To

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The Presiding Officer,
Principal Labour Court,
Vellore.

Copy to

The Registrar (Judicial),
Madras High Court,
Chennai – 600 104.



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P.D. AUDIKESAVALU, J.

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