



W.A.No.1662 of 2016 etc.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 20.12.2022

Coram:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
and
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

Writ Appeal No.1662 of 2016,
Writ Petition Nos.17833 of 2008, 35639 of 2016 and 2057 of 2012
and
C.M.P.No.20554 of 2016

The Commissioner,
Corporation of Chennai,
Ripon Buildings,
Chennai-600 003.

.. Appellant in W.A.No.1662 of 2016

Vs.

1. The Presiding Officer,
First Addl. Labour Court,
Chennai.

2. E.Sampath

.. Respondents in W.A.No.1662 of 2016

Writ Appeal No.1662 of 2016 filed under Clause 15 of the Letters Patent against the order dated 10.11.2016 passed by the learned Single Judge in W.P.No.39280 of 2016 on the file of this Court.



W.A.No.1662 of 2016 etc.

For appellant : Mr.S.Silambannan, Addl. Advocate General
assisted by Ms.K.Aswini Devi, Standing Counsel

For respondents: R-1 - Labour Court

Mr.K.V.Dhanapalan for R-2

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The Commissioner,
Corporation of Chennai,
Chennai-3.

.. Petitioner in W.P.No.17833 of 2008

Vs.

1. E.Sampath

2. The Presiding Officer,
First Addl. Labour Court,
Chennai-104.

.. Respondents in W.P.No.17833 of 2008

Writ Petition No.17833 of 2008 filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for the records in C.P.No.382 of 2003 on the file of the First Additional Labour Court, Chennai, order dated 31.10.2007 and quash the same.

For petitioner : Mr.S.Silambannan, Addl. Advocate General
assisted by Ms.K.Aswini Devi

For respondents: Mr.K.V.Dhanapalan for R-1
R-2 Court

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The Commissioner,
Corporation of Chennai,
Rippon Buildings,

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W.A.No.1662 of 2016 etc.

Chennai-600 003.

.. Petitioner in W.P.No.35639 of 2016

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Vs.

1. The Presiding Officer,
First Addl. Labour Court,
Chennai.

2. E.Sampath Kumar

.. Respondents in W.P.No.35639 of 2016

Writ Petition No.35639 of 2016 filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for the records in respect of the impugned Award in C.P.No.129 of 2012, dated 23.06.2015 passed by the first respondent and quash the same.

For petitioner : Mr.S.Silambanan, Addl. Advocate General
assisted by Ms.K.Aswini Devi

For respondents: Mr.K.V.Dhanapalan for R-1
R-2 Court

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E.Sampath

.. Petitioner in W.P.No.2057 of 2012

Vs.

1. The Presiding Officer,
First Addl. Labour Court,
Chennai.

2. The Commissioner,
Corporation of Chennai,
Chennai-3.

.. Respondents in W.P.No.2057 of 2012

Writ Petition No.2057 of 2012 filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified

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Mandamus to call for the records relating to C.P.No.382 of 2003 and to quash the portion of the Award of the Labour Court, dated 31.10.2007 and consequently direct the second respondent to pay the petitioner a sum of Rs.6,19,020/- as back-wages for the period from 01.02.1993 to 30.09.1993 with 12% interest from the date of order in C.P.No.382 of 2003 till the date of payment.

For petitioner : Mr.K.V.Dhanapalan

For respondents: R-1 Labour Court

Mr.S.Silambanan, Addl. Advocate General
assisted by Ms.K.Aswini Devi for R-2

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COMMON JUDGMENT

Corporation of Chennai has come forward with Writ Appeal No.1662 of 2016, W.P.Nos.17833 of 2008 and 35639 of 2016 and the employee-E.Sampath has preferred W.P.No.2057 of 2012.

2. The employee-E.Sampath, alleging that he was disengaged from service, raised an industrial dispute, which had resulted in an award dated 05.03.1996 passed in I.D.No.243 of 1994 in his favour, whereby his



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termination from service due to unauthorised absence, was interfered with, besides granting back-wages.

3. Before the Labour Court, the Management did not enter appearance, resulting in passing of an ex-parte award. Though the award of the Labour Court is cryptic and non-speaking one, the Management did not question the said award, by filing an application in terms of Rule 48 of the Tamil Nadu Industrial Dispute Rules, 1958, within the time stipulated and the workman-E.Sampath had approached the Labour Court claiming wages by means of various computation petitions.

4. After waking up from slumber, in C.P.No.382 of 2003, the Management filed an application to condone the delay of more than 1000 days in setting aside the ex-parte award and to restore the said C.P. on file, which was rejected by the Labour Court on 16.03.2000. The Management has not challenged the said order and after efflux of almost 16 years from the date of dismissal of the condone delay petition by the Labour Court in the year 2000 and passing of various orders in the computation petitions, the



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Writ Petition has been filed questioning the ex-parte award. There was a delay of 20 years in challenging the Award dated 05.03.1996 passed in I.D.No.243 of 1994.

5. The learned Single Judge, after hearing the parties, found on facts that after the Award of the year 2003 in C.P.No.382 of 2003, an Award was passed on 31.10.2007 and, thereafter, yet another computation petition was filed in C.P.No.129 of 2012, which was disposed of on 23.06.2015 by the Labour Court. When the ex-parte Award was sought to be executed by means of computation petitions, the Management has questioned the award after the period of two decades, which was refused to be interfered with by the learned Single Judge holding that the officials of the Corporation of Chennai were sleeping over the matter like a Rip Van Winkle and thus, allowed the ex-parte award to be executed by the employee. The learned Single Judge, finding no earthly reason to interfere with the award of the Labour Court after lapse of over 20 years, directed the Corporation of Chennai to initiate action against the officials who were no indolent and not diligent in protecting the interest of the Corporation of Chennai. The



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Corporation of Chennai was further directed to pay costs assessed at Rs.25,000/-.

6. Admittedly, during the pendency of the Writ Petition, in the year 2009, the employee attained the age of superannuation.

7. It is trite, as held by the Supreme Court in the decision reported in 1974 (3) SCC 318 (Woolcombers of India Ltd. Vs. Workers' Union), that the Labour Courts are bound to pass a reasoned speaking order, as such reasoned order will have the appearance of justice and prevent arbitrariness in reaching the conclusion and the relevant paragraph of the judgment (supra) is reproduced hereunder:

"5. ... The giving of reasons in support of their conclusions by judicial and quasi-judicial authorities when exercising initial jurisdiction is essential for various reasons. First, it is calculated to prevent unconscious unfairness or arbitrariness in reaching the conclusions. The very search for reasons will put the authority on the alert and minimise the chances of unconscious infiltration of personal bias or unfairness in the conclusion. The authority will adduce reasons which will be regarded as fair and legitimate by a reasonable



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man and will discard irrelevant or extraneous considerations. Second, it is a well-known principle that justice should not only be done but should also appear to be done. Unreasoned conclusions may be just but they may not appear to be just to those who read them. Reasoned conclusions, on the other hand, will have also the appearance of justice. Third, it should be remembered that an appeal generally lies from the decisions of judicial and quasi-judicial authorities to this Court by special leave granted under Article 136. A judgment which does not disclose the reasons, will be of little assistance to the Court. The Court will have to wade through the entire record and find for itself whether the decision in appeal is right or wrong. In many cases this investment of time and industry will be saved if reasons are given in support of the conclusions. So it is necessary to emphasise that judicial and quasi-judicial authorities should always give the reasons in support of their conclusions."

The aforesaid view of the Apex Court has been reiterated by the Supreme Court in the decision reported in 2010 (9) SCC 496 (Kranti Associates Private Limited and others Vs. Masood Ahmed Khaan and others), wherein the Supreme Court highlighted the necessity of giving reasons by a body or authority in support of its decision. The Supreme Court (in Kranti



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Associates Case) further held that an order passed by a quasi-judicial body or even an administrative authority affecting the rights of the parties, must be a speaking order.

8. In the case on hand, on account of the failure on the part of the Corporation of Chennai to initiate appropriate proceedings to set aside the ex-parte award within a stipulated time, the award of the Labour Court has attained finality and the same has got to be implemented in toto. In such view of the matter, we find no reason to interfere with the impugned order passed by the learned Single Judge.

9. Since the ex-parte award has become final, we are of the view that the monetary benefits computed by the Labour Court have to be extended to the employee. The Corporation of Chennai is directed to pay the monetary benefits due to the employee within three months from the date of receipt of a copy of this judgment.

10. It is submitted by learned Additional Advocate General that if the

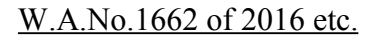


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interest for the period during which W.P.No.39280 of 2016 was pending before the learned Single Judge, is waived, he will advise the Corporation of Chennai to pay the amount computed by the Labour Court. The learned Additional Advocate General added that a sum of Rs.1,26,000/- has already been deposited before the Labour Court, which may be permitted to be withdrawn by the employee, for which, learned counsel appearing for the employee-E.Sampath submitted that he is willing to give up the claim of interest, if the amount is paid within three months from the date of receipt of a copy of this judgment.

11. Taking note of the submissions of both parties and finding no ground to interfere with the impugned award of the Labour Court, as confirmed by the learned Single Judge, we hereby permit the employee-E.Sampath to forthwith withdraw Rs.1,26,000/- together with accrued interest lying in the deposit of the Labour Court in C.P.No.382 of 2003. The balance amount which is payable to the employee-E.Sampath in the said C.P., shall be paid by the Corporation of Chennai within a period of three months from the date of receipt of a copy of this judgment, without interest.

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Corporation of Chennai,
Ripon Buildings,
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2. The Presiding Officer,
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S.VAIDYANATHAN, J

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MOHAMMED SHAFFIQ, J

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