



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2022

CORAM

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

W.P. Nos. 15624 and 15625 of 2017
and

W.M.P. Nos. 16916 and 16917 of 2017

The Managing Director,
M/s. Hidesign India Pvt. Ltd.,
No. 244/1, Odhiyampet Village,
Villianur (P.O.),
Puducherry - 605 110.

... Petitioner in both W.P.s

-vs-

1. R.Jean D' Arc

2. The Presiding Officer,
Labour Court,
Puducherry.

... Respondents in both W.P.s

Prayer in W.P. No. 15624 of 2017:- Writ Petitions filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the records connected with the award dated 06.08.2013 made in I.D.(L) No. 92 of 2012 on the file of the Second Respondent, Labour Court, Puducherry.

Prayer in W.P. No. 15625 of 2017:- Writ Petitions filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the records connected with the order dated 11.04.2017 made in I.A. No. 124 of 2016 in I.D.(L) No. 92 of 2012 on the file of the Second Respondent, Labour Court, Puducherry.

For Petitioner : Mr. C.Sai Prasad
(in both W.P.s) for M/s. Sai Raaj Associates

For Respondents: Mr. P.Dineshkumar (for R1)
(in both W.P.s)

R2 - Court

C O M M O N O R D E R

Heard Mr. S.Sai Prasad, Learned Counsel for the Petitioner
and Mr. P.Dineshkumar, Learned Counsel for the First Respondent



and perused the materials placed on record, apart from the pleadings of the parties.

2. The First Respondent, who claims to have worked in the establishment of the Petitioner from 12.11.1991 onwards has raised an industrial dispute in I.D.(L) No. 92 of 2012 before the Labour Court, Puducherry (hereinafter referred to as 'the Labour Court' for short) invoking Section 2-A(2) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short) claiming that she had been terminated from service with effect from 16.02.2012. According to the Petitioner, it had entered appearance and filed Counter-Affidavit in that matter in which an exparte award dated 06.08.2013 came to be passed directing it to reinstate the First Respondent in service with backwages, continuity of service and other statutory benefits. The application to set aside the exparte award dated 06.08.2013 in I.D.(L) No. 92 of 2012 along with the application in I.A. No. 124 of 2016 to condone the delay in filing filed by the First Respondent was dismissed by order dated 11.04.2017 passed by the Labour Court, which is challenged in W.P. No. 15625 of 2017. The other Writ Petition in W.P. No. 15624 of 2017 has been filed against the exparte award dated 06.08.2013 in I.D.(L) No. 92 of 2012 passed by the Labour Court.

3. It requires to be straightaway noticed that the exparte award dated 06.08.2013 in I.D.(L) No. 92 of 2012 passed by the Labour Court does not contain any reason whatsoever. The Labour Court has merely recorded that witnesses were examined, exhibits were marked, the claim was proved and the First Respondent was entitled to the relief sought. It must, at once, be pointed out that the Division Bench of this Court in M/s. Meenakshisundaram Textiles -vs- M/s. Valliammal Textiles Ltd. [(2011) 3 CTC 168] after referring to the decisions of the Hon'ble Supreme Court of India in Swaran Lata Ghosh -vs- H.K. Banerjee [(1969) 1 SCC 709], State of Tamil Nadu -vs- S. Thangavel [(1997) 2 SCC 349], Balraj Taneja -vs- Sunil Madan [(1999) 8 SCC 396], Lakshmi Ram Bhuyan -vs- Hari Prasad Bhuyan [(2003) 1 SCC 197], Ramesh Chand Ardawatiya -vs- Anil Panjwani [(2003) 7 SCC 350] and State of Punjab -vs- Bhag Singh [(2004) 1 SCC 547], has reiterated the settled legal position that even in the absence of the Defendant contesting in a suit, the Court is legally bound to give reasons for accepting the claim of the Plaintiff and in the absence of such adjudication of the claim, the decree passed cannot be sustained in law. There is no discussion with reference to any of the documents produced or from the deposition of the witness in the award passed by the Labour Court as to how the First Respondent was entitled to the relief sought as prayed for the mere asking and as such, the same cannot stand judicial scrutiny. At the same time, the Petitioner would have to



compensate the First Respondent for the inordinate delay in applying for setting aside the exparte award and as required by this Court, Learned Counsel for the Petitioner has today handed over a demand draft bearing No. 143006 dated 14.02.2022 drawn on Indian Overseas Bank, Aminjikarai Branch, Chennai for the sum of Rs. 30,000/- in favour of the First Respondent towards costs and Learned Counsel for the First Respondent has acknowledged its receipt.

4. In such circumstances, the exparte award dated 06.08.2013 in I.D.(L) No. 92 of 2012 passed by the Labour Court is set aside and I.D.(L) No. 92 of 2012 is restored to file. The order dated 11.04.2017 in I.A. 124 of 2016 in I.D.(L) No. 92 of 2012 shall stand effaced and I.D.(L) No. 92 of 2012 shall be listed for next hearing on 18.04.2022 before the Labour Court. The parties or their respective Counsel shall attend the hearing on the said date as well as on the subsequent dates to which it is adjourned and extend their co-operation for the early disposal of the matter. After affording full opportunity of hearing to all parties concerned following the prescribed procedure in consonance with the principles of natural justice, the Labour Court shall deal with each of the contentions raised and pass reasoned orders on merits and in accordance with law and communicate the decision taken to the concerned parties under written acknowledgment. It shall be ensured that there is atleast one effective hearing every week showing progress of the case and monthly reports in that regard shall be sent to the Registrar (Judicial) of this Court till the matter is finally disposed.

In the upshot, the Writ Petition is ordered on the aforesaid terms. Consequently, the connected Miscellaneous Petitions are closed. No costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

vjt

To

1. The Presiding Officer,
Labour Court,
Puducherry.



Copy to :-

The Registrar Judicial
High Court, Madras.

1cc to Mr.D.Ravichander, Advocate, S.R.No.10652

W.P. Nos. 15624 and 15625 of 2017

AD(CO)
CT 11/03/2022