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Writ Petition No.3156 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.3156 of 2023

1. S.Kameswari
2. Anirudh Subramanian
3. Ganga Subramanian

... Petitioners

Vs.

1. Joint Commissioner of Labour (Minimum Wages)
Under the Tamil Nadu Shops & Establishments Act,
Also the Appellate Officer,
Commissionerate of Labour,
Teynampet, Chennai – 600 006.

2. M/s.Synamedia India Pvt Ltd.,
I-Sprout Towers, 5th & 6th Floor,
Rajiv Gandhi Salai,
O.M.R., Chennai – 600 096.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Certiorarified Mandamus calling for the records of the first respondent relating to Communication No.S2/18206/2022 dated 26.07.2022, quash the same, and consequently direct the first respondent to take the Appeal filed by the petitioner under Section 41(2) of the Tamil Nadu Shops and Establishments Act, 1947, dated 03.06.2022 on record.



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For Petitioners : Mr.Atulsrivats Rangarajan

For Respondents : Mr.D.Ravichandar
Special Government Pleader

ORDER

On consent given by either side, the main writ petition itself is taken up for final hearing.

2. This writ petition has been filed challenging the impugned proceedings of the first respondent dated 26.07.2022 and for a consequential direction to the first respondent to deal with the appeal filed by the petitioners under Section 41(2) of the Tamil Nadu Shops and Establishments Act, 1947 on its own merits and in accordance with law.

3. The case of the petitioners is that the husband of the first petitioner was working in the second respondent company and the second respondent Company appointed him through an appointment letter dated 15.01.2020 and his annual salary was fixed at Rs.28,44,000/- (Twenty Eight Lakhs Forty Four Thousand).



4. The husband of the first petitioner was terminated from service by the second respondent on 16.04.2021. When the husband of the first petitioner was about to challenge the termination, unfortunately he died due to COVID complications on 11.06.2021.

5. The petitioners who are the legal heirs filed an appeal before the first respondent under Section 41(2) of the Tamil Nadu Shops and Establishments Act, 1947. The first respondent did not go into the merits of the claim made by the petitioners and the appeal was dismissed on the simple ground that the husband of the first petitioner had already died and hence nothing survives and the petitioner cannot maintain the appeal. Aggrieved by the same, the present writ petition has been filed.

6. Heard Mr.AtulSrivats Rangarajan, learned counsel for petitioners and Mr.D.Ravichandar, learned Special Government Pleader, appearing for respondents.

7. In the considered view of this Court, the first respondent went wrong in dismissing the appeal on the ground that nothing survives in the appeal due to the demise of the husband of the first petitioner. The



first respondent failed to take note of the fact that the only relief which cannot be granted is re-instatement into service since the husband of the first petitioner had died. That apart, the petitioners will be entitled for many of the other reliefs. If the termination of the husband of the first petitioner is held to be bad, there will be continuation of the Life Insurance Coverage, there will be continuation of the Medical Insurance Coverage, there will be continuation of Employee Provident Fund Insurance Coverage and in fact, compensation can be granted in favour of the petitioners. Unfortunately, the first respondent failed to take note of all these reliefs which could have been considered in the appeal filed by the petitioners. Therefore, the mere fact that the husband of the first petitioner died, does not in any way take away the right of the petitioners to claim for the reliefs that have been indicated supra.

8. In the light of the above discussion, this Court has absolutely no hesitation to interfere with the proceedings of the first respondent dated 26.07.2022 and accordingly, the same is hereby quashed. The matter is remanded back to the file of first respondent and there shall be a direction to the first respondent to deal with the same on its own merits and in accordance with law and pass final orders within a period of twelve (12) weeks from the date of receipt of a copy of this order.



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In the result, this writ petition is allowed with above directions.

No costs.

07.02.2023

Neutral Citation: Yes/No

Index: yes/no

Speaking Order/Non-Speaking Order

rap/gm

To

1. Joint Commissioner of Labour (Minimum Wages)
Under the Tamil Nadu Shops & Establishments Act,
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N.ANAND VENKATESH, J

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