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WP.No.24257 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2023

CORAM :

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.24257 of 2018
& W.M.P.Nos.23724 of 2023

Salem Mines and Aggricates
Rep by its Manager,
K.Murugaraju,
No.189, Kunnavakkam Village,
Thirukazhkkundram Taluk,
Kancheepuram District.

...Petitioner

Vs

S.Sheik Alavudeen

...Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for the issuance of appropriate Writs, Orders of directions and in particular issue a writ of certiorari after calling for the concerned records relating to the award dated 04.12.2018 in I.D.No.402 of 2018 passed by the Hon'ble Llabour Court Kancheepuram and quash the same.

For Petitioner : Mr.Sathiyavel

For Respondent-1 : Mr.S.Sivakumar



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ORDER

Aggrieved by the impugned award passed by the Labour Court, Kancheepuram in I.d.No.402 of 2018, the petitioner is before this Court.

2. The facts leading to filing of this case are as follows :

(i) The District Collector, Kanchipuram, vide proceedings dated 26.2.2016, granted stone quarrying licence to the petitioner in various survey numbers of Kunnavakkam Village, Thirukazhukundram Taluk, Kanchipuram District for a period of five years by incorporating certain conditions. Vide subsequent proceedings dated 19.11.2018, the District Collector, Kanchipuram granted quarrying licence to the petitioner in respect of one more survey number of the same place namely S.F.No.176/1A for five years from 19.11.2018 to 18.11.2013. However, vide another proceedings dated 29.10.2021, the District Collector, Kanchipuram directed the petitioner to stop the quarrying operations in respect of S.F.No.176/1A.



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(ii) The petitioner engaged the services of the respondent as a driver for the purpose of driving lorries from 2015 to 2017. He was also paid wages for the work he had done. However, he did not turn up for work from 31.5.2017. The petitioner never issued to him either the appointment order or the termination order. Thereafter, it came to light that the respondent approached the Labour Court, Kanchipuram by filing I.D.No.402 of 2018 seeking to reinstate him into service with continuity of service, back wages and all other attendant benefits. The respondent did not receive any notice from the Labour Court and the respondent managed to create records as if the notice was served on the petitioner. He succeeded in obtaining the impugned ex parte award wherein the Labour Court directed the petitioner to reinstate the respondent with continuity of service from May 2017, back wages and all other attendant benefits. Challenging the same, the petitioner is before this Court.

3. When the matter came up for admission on 17.8.2023, in WMP.No.23724 of 2023, this Court granted an order of interim stay as prayed for.



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4. Learned counsel for the petitioner would submit that the present impugned order is an ex-parte order against the petitioner. The said order was passed by the Labour Court, Kancheepuram without providing an opportunity of personal hearing to the petitioner. Therefore, this Court may set aside the order passed in I.D.No.402 of 2018 and the remand the matter back to the Labour Court, Kancheepuram for fresh consideration.

5. Learned counsel appearing for the respondent did not dispute the aforesaid contentions.

6. It is evident from the materials available on records that no opportunity of hearing has been given to the petitioner while passing the order under challenge and in view of the fair stand taken by the learned Counsel for the respondent, this Court is inclined to set aside the impugned order dated 04.12.2018 passed in I.D.No.402 of 2018 and accordingly, the same is hereby set aside. The matter is remanded to the Labour Court, Kancheepuram for fresh consideration. The Labour Court, Kancheepuram is



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directed to dispose of the Industrial Dispute in I.D.No.402 of 2018, after affording an opportunity of personal hearing to the petitioner as well as the respondent herein, within a period of six weeks from the date of receipt of a copy of this order.

7. Accordingly, this Writ Petition stands disposed of with the above direction. There shall be no order as to costs. Consequently, the connected Miscellaneous Petition is closed.

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Index : Yes (or) No

Neutral Citation : Yes (or) No

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