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W.P.Nos.4467, 4468 & 19356 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.Nos.4467, 4468 & 19356 of 2017

and

W.M.P.Nos.4681, 4682 & 20855 of 2017

W.P.Nos.4467 & 4468 of 2017

The Management of
The Egmore Benefit Society Limited,
25, Flowers Road, Chennai – 84,
Rep. by its Secretary

... Petitioner

Vs.

1.The Presiding Officer,
III Additional Labour Court,
Chennai.

2.The Egmore Benefit Society Ltd. Employees Union,
No.3/282, 26th Street,
'N' Block, East Anna Nagar,
Chennai – 600 102.

... Respondents

W.P.No.19356 of 2017

R.Dilliraj

... Petitioner

Vs.



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1. The Presiding Officer,
III Additional Labour Court,
High Court Campus,
Chennai – 600 104.
 2. The Egmore Benefit Society Ltd. Employees Union,
Regd.No.1711/MDS,
No.3/282, 26th Street,
'N' Block, East Anna Nagar,
Chennai – 600 102.
 3. The Management of Egmore Benefit Society,
New No.25, Flowers Road,
Chennai – 600 084.
- ... Respondents

Prayer in W.P.No.4467 of 2017 : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records relating to the Award dated 19.09.2016 passed by the 1st respondent/Labour Court in I.D.No.117 of 2011 and to quash the same.

Prayer in W.P.No.4468 of 2017 : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for records relating to the Award dated 19.09.2016 passed by the 1st respondent/Labour Court in Complaint No.1 of 2013 in I.D.No.117 of 2011 and to quash the same.

Prayer in W.P.No.19356 of 2017 : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the concerned records from the 1st respondent, quash the Award passed by the 1st respondent Labour Court dated 19.09.2016 in



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Complaint No.1 of 2013 in I.D.No.117 of 2011 as illegal, arbitrary, in violation of principles of natural justice and contrary to law.

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For Petitioner : Mr.R.Jayaprakash
For Respondents : Court [R1]
Mr.K.M.Ramesh
Senior Counsel
for M/s.S.Apunu [R2]

W.P.No.19356 of 2017

For Petitioner : M/s.Balan Haridas
For Respondents : Court [R1]
Mr.K.M.Ramesh
Senior Counsel
for M/s.S.Apunu [R2]
Mr.R.Jayaprakash [R3]

COMMON ORDER

Since the issue involved in all the writ petitions are one and the same, with the consent of the learned counsel appearing for the parties, these writ petitions are heard together and disposed of by this common order.



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2. The petitioner in W.P.No.19356 of 2017, one R.Dilliraj joined the service of the third respondent/Society in W.P.No.19356 of 2017, who is the petitioner in W.P.Nos.4467 and 4468 of 2017, as an Assistant and initially, he was a member of the second respondent/Union in W.P.No.19356 of 2017. Thereafter, he was promoted to the post of Junior Manager and consequently, he ceased to be a member of the Union. Subsequently, he was promoted as Senior Manager as well as Assistant General Manager. While so, the Union raised a dispute in I.D.No.117 of 2011 with regard to the promotion given to one A.K.Rajaram as Junior Manager before promoting certain other employees. In the said dispute, a complaint under Section 33A was filed by the Union in Complaint No.1 of 2013 alleging that juniors have been promoted pending the adjudication of the said dispute. Thereafter, the Labour Court passed an award dated 19.09.2016 in I.D.No.117 of 2011 and held that S.Kumar is entitled to get promotion as Junior Manager followed by Elumalai, Gajalakshmi, Fredrick Rubanathan, Jayaprakash, Dilliraj, Baskaran and Sujatha. Challenging the same, the Society has filed W.P.No.4467 of 2017 before this Court. However, in the award



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dated 19.09.2016 passed in Complaint No.1 of 2013 in I.D.No.117 of 2011, the Labour Court has set aside the promotion given to A.K.Rajaraman, R.Dilliraj, R.Gajalakshmi as Assistant General Manager without hearing them. Challenging the same, the Society and one R.Dilliraj/workman filed writ petitions in W.P.Nos.4468 and 19356 of 2017.

3. The learned counsel appearing for the Society submits that, the promotion given to one A.K.Rajaraman as Junior Manager by the Society was challenged by the Union under Section 2(k) of the Industrial Disputes Act, 1947 (in short 'the Act'). Though the names of the other workmen including the workman herein were discussed in the impugned award, however, the Labour Court failed to give any opportunity to them before passing the impugned order, which is not sustainable. Accordingly, he prays for appropriate orders.

4. The learned counsel appearing for the petitioner/workman in W.P.No.19356 of 2017 submits that, his promotion was set aside by way of the award passed by the Labour Court at the instances of the Union

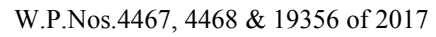


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without providing any opportunity to him, which is not sustainable and the same is violation of principles of natural justice. Further, he submits that, it is the discretion of the Society to give promotion to the employees, who are working for a long period. Once the promotion is given to managerial cadre, the same is not the subject matter of dispute under the Act. Accordingly, he prays for appropriate orders.

5. The learned Senior Counsel appearing for the Union submits that, though the persons, who got promotion at the instance of the Society, they are Juniors and they were given promotion, however, they were not affected by the award and they were not given opportunity before the Labour Court. On the said ground, this Court may set aside the impugned award passed by the Labour Court and remand the matter to the Labour Court for fresh consideration and to dispose of the same, after providing opportunity to the persons likely affected, namely R.Dilliraj and A.K.Rajaraman and few others.

6. In view of the fair submissions made by the learned Senior Counsel appearing for the Union, the impugned awards passed by the



7. Accordingly, these writ petitions are allowed. No costs.

31.07.2023

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M.DHANDAPANI, J.

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