



W.P. No.29164 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2023

CORAM :

THE HONOURABLE MR. JUSTICE K. KUMARESH BABU

W.P.No.29164 of 2022
and
W.M.P.No.28444 of 2022

Tamil Nadu General Workers Union
Hindustan Petroleum Corporation Employees Branch,
Reg.No.289/CPT/1975
Rep by its General Secretary
2/1, Kovoor Vaidyanathan Street,
Chintadripet,
Chennai 600 002.

... Petitioner

Vs.

1.The Chief Installation manager
Hindustan Petroleum Corporation Limited,
Athipattu Pudhu Nagar,
Vallur Village
Chennai 600 120.

2.M/s.Sri Lakshmi Electricals
No.1044, TH Road, Kaladipet,
Chennai 600 019

3.M/s.Naveen Security Services,
No.347, VKS Lakshmi Nagar
Pondy Road
Villupuram 605 602.



W.P. No.29164 of 2022

4.M/s.Green Tech
No.111, Nedunchezhiyan Salai,
Manali, Chennai 600 068.

5.M/s.Vital Technical Services
46B/60, Amir John Street,
Chollaimedu,
Chennai 600 094.

6.S.Selvarajan
No.100, Velayutham Street,
Todiarpeth,
Chennai 600 081.

7.M/s. Taste Budz,
No.22, Bharathiyar Street,
Mehata Nagar,
Chennai 600 029.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, calling for the concerned records from the Central Government Industrial Tribunal cum Labour Court, Chennai, quash the common order dated 20.10.2022 in miscellaneous petitions 1, 2 & 3 of 2022 in I.D.No.14 of 2018 passed by the Central Government Industrial Tribunal cum Labour Court, Shastri Bahawan, Chennai, as illegal, arbitrary and contrary to the provisions of the Industrial Disputes Act 1947 and consequently direct the Central Government Industrial Tribunal cum Labour Court, Shastri Bhawan, 1st Flor, B Wing No.26, Haddows Road, Chennai 600 006 to take the miscellaneous petitions 1, 2 & 3 of 2022 in I.D.No.14 of 2018 on record and decide the same on merits.



W.P. No.29164 of 2022

For Petitioner : Mr.A.Balan Haridas
For Respondents R1 : Mr.M.Vijayan for
M/s.King and Patridge
R2, R4 & R7 : Not ready in notice.
R6 : Deceased
R3 & R5 : No Appearance

ORDER

This writ petition has been filed challenging the order dated 20.10.2022 rejecting the applications filed by the petitioner seeking to condone the delay and setting aside the order of dismissal. However, without considering the claim made by the petitioner on merits, in its applications, the Presiding Officer had proceeded to hold that the award had been forwarded to the appropriate Government for publication in the gazette and that the award is enforceable on expiry of 30 days from the date of publication. Therefore, he rejected the applications as being devoid of merits.

2. The learned counsel appearing for the petitioner would submit that no award had been passed which is yet to be enforced. The claim petition had been dismissed as the same was not prosecuted by the petitioner. This aspect had been over looked by the Tribunal and it was of the opinion



that the award would have to be enforced after a period of 30 days of passing the award. He would submit that merely because the award has become enforceable, it does not mean that it has become binding.

3. He would also submit that when the award had been passed, by denying opportunity of hearing and when there was sufficient cause for non-appearance, the same could be challenged on the ground of nullity. In respect of the said contention, the learned counsel would rely upon the judgment of Hon'ble Apex Court rendered in C.A.No.5650 of 2018 dated 18.05.2018.

4. Mr.M.Vijayan, the learned counsel appearing for the 1st respondent would submit that he has no serious objections in setting aside the order of dismissal by this Court and directing the authority concerned to take the same on file and decide the dispute on merits. In such view, he would request this Court to permit the respondents to file counter to the claim petition filed by the petitioner. He would further submit that he has serious objection for the application seeking *status quo* to be maintained alone.



WEB COPY

8. In such view of the matter, I am inclined to interfere with the orders that are impugned in this writ petition and the same is liable to be set aside. Therefore, I am constrained to remit the matter back to the authority to decide the same on merits.

9. Considering the submissions made by the learned counsel for the 1st respondent that he has no objection in restoring the claim petition on the file of the authority, I also set aside the order of dismissal passed by the authority and restore the claim petition in I.D.No.14 of 2018 on the file of the Central Government Industrial Tribunal cum Labour Court, Chennai. The respondents shall also file their counters to the claim petition in I.D.No.14 of 2018 within a period of 8 weeks from the date of restoration of I.D. Thereafter, the Industrial dispute shall dispose of the case as expeditiously as possible .



W.P. No.29164 of 2022

WEB COPY

10. With the above said directions, this writ petition is disposed of.

However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

21.12.2023

Index : Yes/No
Speaking Order : Yes/No
dpa



WEB COPY



W.P. No.29164 of 2022

K. KUMARESH BABU,J.

dpa

W.P.No.29164 of 2022
and
W.M.P.No.28444 of 2022

21.12.2023