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W.P. No.1241 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2023

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

**W.P. No.1241 of 2017
and WMP.No.1174 of 2017**

The Management of Diamond Engineering Ltd
rep. by its Deputy Managing Director P.Dhanaraj,
No.179 Rajiv Gandhi Road,
IT Highway, Sholinganallur
Chennai- 600 119.

....Petitioner

Vs

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

2. K.Marimuthu

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari Calling for the records relating to the order passed by the 1st respondent in I.D.No.619 of 2010, dated 06.07.2016 quash the same.

For Petitioners : Mr.T.Pothiraj
For Respondents : Mr.S.Kavin R2
Legal Aid Counsel
R1- Court

ORDER

The petition has been filed seeking to quash the order passed by the 1st respondent in I.D.No.619 of 2010, dated 06.07.2016.



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2. It is the case of the petitioner that the second respondent workman filed a petition under Section 2A(2) of the ID Act before the Labour Court as if he was employee of the petitioner and he was orally terminated by the petitioner Management. The Labour Court has passed the impugned order dated 06.07.2016 and directed the petitioner to reinstate the second respondent with continuity of service and to pay back wages and all other attendant benefits. Challenging the same, the petitioner Management has filed the present writ petition before this Court.

3. The learned counsel for the petitioner submitted that the second respondent committed theft and also disobeyed the instructions given by his superior officer and also found that he has been under the influence of alcohol many occasions. The learned counsel further submitted that there is no employee – employer relationship existed between the second respondent and the petitioner. The Labour Court, without providing sufficient opportunity, passed the present impugned award and the same is liable to be set aside. This Court may remand the matter back to the first respondent for fresh consideration. The learned counsel on instructions submitted that the petitioner Management is ready to deposit a sum of Rs.50,000/- before the Labour Court.



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4. On the many occasions, this Court sent notice to the second respondent through Court as well as privately and the same was returned with an endorsement "Person not found". Hence, when the matter is taken up for hearing, this Court appoints Mr.Kavin, Legal Aid Counsel, on behalf of the second respondent, for contesting the case.

5. The learned counsel for the second respondent submitted that before the Labour Court, the second respondent himself has examined as witness before the Ex.WW1 and the marked 10 documents and on the side of the petitioner, there were no documents and witnesses examined. After adjudication, the Labour has rightly passed an order, which does not need any inference from this Court.

6. Heard the learned counsel for the petitioner and the learned Legal-aid Counsel appearing on behalf of the second respondent and perused the materials available on record.

7. Considering the fact that the Labour Court has passed an ex-parte award and the petitioner themselves come forward to pay a compensation to the



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second respondent and also considering the submission made by the learned counsel for the petitioner, this Court passes the following orders:

"1. The petitioner Management is directed to pay a sum of Rs.50,000/- before the first respondent within a period of two weeks from the date of receipt of a copy of this order;

2. Upon receipt of which, the first respondent shall disburse the amount to the second respondent; and

3. Further this Court sets aside the impugned award and remands the matter back to the Labour Court for fresh consideration and the same shall consider and pass orders as expeditiously as possible, after providing opportunity to the petitioner as well as the second respondent, on merits and in accordance with law."

8. With the above observation, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is also closed. Further this Court directs the Secretary, Legal Services Authority, High Court, Madras shall fix an appropriate fees for the legal aid counsel and disburse the same to her.

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Index: Yes/No

NCS : Yes/No



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M.DHANDAPANI, J.

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