



W.A.(MD)No.601 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 09.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

AND

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

W.A.(MD)No.601 of 2018

V.Rajagopal

... Appellant/2nd Respondent

Vs.

1.The Presiding Officer,
Labour Court,
Madurai.

... 1st Respondent/1st Respondent

2.The Management,
Madura Sugars, Pandiarajapuram,
Vadipatty Taluk, Madurai District,
Through its Chief Executive

3.Tamil Nadu Sugar Corporation,
690, Anna Salai,
Chennai through its Chairman

... Respondents 2 & 3 /
Writ Petitioners

PRAYER: Appeal filed under Clause 15 of Letters Patent, praying this Court to set aside the order dated 05.07.2016 made in W.P.(MD)No.6090 of 2010 on the file of this Court.



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For Appellant : Mr.C.Kishore

For 1st Respondent : Labour Court

For Respondents 2 & 3 : Mr.C.Karthikeyan

JUDGMENT

(Judgment of the Court was delivered by **R.SURESH KUMAR, J.**)

This Writ Appeal has been directed against the order of the Writ Court dated 05.07.2016 made in W.P.(MD) No.6090 of 2010.

2. The appellant was a workman. He raised an industrial dispute under 2A(2) of the Industrial Disputes Act against the respondent Management as he was terminated from service by the Management.

3. The Labour Court has taken the said Industrial Dispute as I.D.No.33 of 1996 on the file of the Labour Court, Madurai, and decided the same by the award dated 29.04.2009, where under, the Labour Court having found that the order of dismissal or removal made by the Management against the workman was not justified, however, by the time, the Management Mill since had been closed and all the employees had been laid



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off by paying some compensation, the Labour Court in its award directed the Management to give equal compensation to the appellant / workman also, by calculating his service till the closure of the Mill as if he has worked on par with the other employees.

4. Aggrieved over the same, the Management filed W.P.(MD) No. 6090 of 2010 and the workman aggrieved over the denial of back wages filed W.P.(MD) No.364 of 2011.

5. These two Writ Petitions were heard together and decided by the learned Judge by a common order dated 05.07.2016, under which, the learned Single Judge allowed the Writ Petition filed by the Management i.e., W.P.(MD) No.6090 of 2010 and dismissing the Writ Petition i.e., W.P.(MD) No.364 of 2011 filed by the workman.

6. Challenging the said order dated 05.07.2016, the present Writ Appeal has been filed by the workman / respondent in W.P.(MD) No.6090 of 2010.



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7. Heard Mr.C.Kishore, learned counsel appearing for the appellant/workman, who would submit that, the only reason that was found out by the learned Judge, in allowing the Writ Petitionl filed by the respondent management and rejecting the Writ Petition filed by the workman was that, the Labour Court without giving any specific finding on the preliminary issue with regard to the domestic enquiry conducted by the Management, whether was in consonance with the principles of natural justice or not, had proceeded to decide the issue on merits by appreciating or re-appreciating the evidence adduced on behalf of both sides and rendered its decision by way of the award. Therefore, that approach of the Labour Court was found fault with by the learned Judge and only on that reason, the learned judge instead of remitting the matter to the Labour Court for reconsideration and to give a preliminary finding with regard to the domestic enquiry has allowed the Writ Petition filed by the Management in toto by rejecting the Writ Petition filed by the workman.

8. That approach of the learned Judge is erroneous and therefore, on the said ground, the said judgment which is impugned herein of the writ Court is liable to be interfered with, he contended.



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9. On the contrary, Mr.C.Karthikeyan, the learned representing counsel appearing for the learned counsel appearing for the respondents Management would submit that the learned counsel on record, who appeared for the respondent Management is no more and on whose behalf when he made attempts to contact the respondent management, there has been no communication and no instructions and it seems that since the Mill has been closed long back, the Management seems to have not responded, therefore, what is the present position and what instructions they would give to the counsel to conduct the case is not known and that is the position of the counsel, therefore, he contended that it is for the Court to take a decision based on the records.

10. We have considered the said submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

11. We have gone through the order impugned passed by the learned Judge. In the entire order, the learned Judge found fault with the Labour Court with regard to the approach made in this regard that, without



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deciding as to whether the domestic enquiry conducted by the Management was in consonance with the principles of natural justice or not and without giving any such finding including the preliminary finding or the finding along with the Labour Court award, the Labour Court since has proceeded to take up the main I.D. by re-appreciating the evidence and rendered the award, that ground was mainly taken by the learned Judge as a reason for setting aside the award.

12. Insofar as setting aside the award on the ground that the Labour Court has not given any finding with regard to the status of the domestic enquiry is concerned, we are in agreement with the learned Judge. However, for the said purpose, normally, the Court would remit the matter back to the Labour Court to render a finding as a preliminary finding with regard to the status of the domestic enquiry conducted by the Management as to whether it is in consonance with the principles of natural justice or not. Only, if a negative finding is given on that issue, the Labour Court would normally proceed to the merits of the I.D. and without which they cannot normally decide the merits of the industrial dispute raised before them. Therefore, in that context, the matter could have been remanded back to the



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Labour judge, instead of allowing the Writ Petition filed by the Management and rejecting the Writ Petition of the employee, by thus, the Industrial Dispute raised by the employee against the management has not been so far decided on merits.

13. In view of this approach, in the considered opinion of this Court, it is erroneous and hence, we feel that the impugned order passed by the learned judge is liable to be interfered with.

14. In the result, the following orders are passed in this Writ Appeal:-

That the order impugned is modified to the extent that, the Writ Petition im W.P.(MD) No.6090 of 2010 stood allowed and W.P.(MD) No. 364 of 2011 dismissed. To that extent, it can be approved, but at the same time, thereafter, the non-remand back of the matter to the Labour Court, in the considered opinion of this Court, since is erroneous, we feel that the issue can be directed to be reconsidered by the Labour Court, for which, we remand I.D. No.33 of 1996 before the Labour Court concerned to render a finding as to the preliminary finding with regard to the domestic enquiry



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conducted by the Management as to whether it is in consonance with the principles of natural justice and depending upon the findings to be given by the Labour Court, the further course of action in accordance with the provision of I.D. Act can be taken by the Labour Court. Since it is a long pending matter, preference may be given by the Labour Court for disposal of the I.D., preferably within three months period from the date of receipt of a copy of this order.

15. With these directions, this Writ Appeal is allowed partly in the term as indicated above. However, there shall be no order as to costs.

(R.S.K., J.) & (K.K.R.K, J.)
09.06.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
SJ

To

1.The Presiding Officer,
Labour Court,
Madurai.



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