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W.P.Nos.37763 of 2004 and 551 of 2005

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2024

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.Nos.37763 of 2004 and 551 of 2005
and W.M.P.No.45312 of 2004

In W.P.No.37763 of 2004 :-

The Managing Director,
Brakes India Limited,
Padi,
Chennai - 600 050.

.. Petitioner

Versus

1. The Presiding Officer,
Principal Labour Court,
Madras.

2. C.Samayamuthu

.. Respondents

In W.P.No.551 of 2005 :-

C.Samayamuthu

.. Petitioner

Versus

1. The Managing Director,
M/s.Brakes India Ltd.,
Padi, Chennai - 50.

2. The Principal Labour Court,
City Civil Court buildings,
Chennai - 104.

.. Respondents



W.P.Nos.37763 of 2004 and 551 of 2005

Prayer in W.P.No.37763 of 2004 : Writ Petition filed under Article 226 of the Constitution of India, pleaded to issue a Writ of Certiorari, to call for the records on the file of the first respondent herein viz., the Presiding Officer, Principal Labour Court, Chennai, in I.D.No.1008 of 1992 and quash the award passed therein, dated 04.08.2004.

Prayer in W.P.No.551 of 2005 : Writ Petition filed under Article 226 of the Constitution of India, pleaded to issue a Writ of Certiorarified Mandamus, to call for the records in I.D.No.1008 of 1992, dated 04.08.2004 on the file of the 2nd respondent and quash the same as illegal so far it affect the petitioner's back wages portion of 50% and direct the 1st respondent to pay 100% of back wages to the petitioner.

In W.P.No.37763 of 2004:-

For Petitioner : Mr.R.Jayaprakash

For Respondents : R1 - Court

: Mr.R.Sankarasubbu, for R2

In W.P.No.551 of 2005:-

For Petitioner : Mr.R.Sankarasubbu

For Respondents : Mr.R.Jayaprakash, for R1

: R2 - Court

COMMON ORDER



W.P.Nos.37763 of 2004 and 551 of 2005

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These two Writ Petitions arise out of the self-same award and as such are taken up and disposed of by this common order.

2. One *C.Samayamuthu*, claimed to be a workman with the management namely Brakes India Limited, raised a dispute with reference to his non-employment and the claim was taken on file as I.D.No.1008 of 1992 and an award was passed on 04.08.2004. The workman was directed to be reinstated into the service with continuity of service and 50% of back-wages. Aggrieved by the same, the management filed W.P.No.37763 of 2004. With reference to the 50% back-wages denied to him, the workman filed W.P.No.551 of 2005. Pending the Writ Petitions, it is already recorded by my predecessor that the workman died and the matters are pending for substituting the legal heirs. The workman also filed a Writ Petition. The learned Counsel made their best attempts to find out their legal heirs.

3. As a matter of fact, the learned Counsel for the workman submitted that he even visited the residence of the workman, but, he could not trace any of the legal heirs of the workman or their places of the current residence. Thereafter, he also sent a letter through speed post, which has



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returned. It can be seen that neither the management nor the learned Counsel for the workman is in a position to trace out the legal heirs of the workman to bring them on record.

4. In the absence of the legal heirs being substituted as the petitioners in W.P.No.551 of 2005 and as the respondents in W.P.No.37763 of 2004, both the Writ Petitions cannot proceed. It is to be noted that even though the workman got a beneficial award, their legal heirs did not take any steps to get in touch with their learned Counsel. In view thereof, in the absence of the necessary parties in both the Writ Petitions, the same cannot proceed. It is made clear that as and when the legal heirs approach the learned Counsel for the erstwhile workman or the respondent management for claiming any benefits, both the sides will be entitled to file appropriate application to reopen the respective Writ Petitions.

5. With such liberty, W.P.No.37763 of 2004 is dismissed as the legal heirs of the workman are not brought on record by the management. W.P.No.551 of 2005 is dismissed as the workman is reported to have died and the legal heirs have not come forward to substitute themselves as



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petitioners. It is stated that the management deposited 50% of the back-wages pursuant to the interim order granted by this Court. Since it is represented that the workman died, the payment out petition shall be entertained and the amount shall be refunded to the management without insisting for the notice to be served on the workman upon production of a copy of this order. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

04.12.2024

Neutral Citation : no
grs

To

The Presiding Officer,
Principal Labour Court,
Madras.



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D.BHARATHA CHAKRAVARTHY, J.

grs

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and W.M.P.No.45312 of 2004

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