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W.A.Nos.2374, 2366, 2367, 2368, 2369, 2370 & 2371 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.08.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE C.KUMARAPPAN

W.A.No.2374, 2367, 2366, 2368, 2369, 2370 & 2371 of 2024
and C.M.P.Nos.16682, 16658, 16656, 16659, 16663,
16664 & 16665 of 2024

In W.A.No.2374 of 2024

The Management of
Hivelm Industries,
A5 &6, Industrial Estate,
Guindy,
Chennai-600 032

... Appellant / Respondent

Vs.

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

2.L.Swaminathan

... Respondent / Petitioner

PRAYER: Appeal is filed under Clause 15 of the Letters Patent, seeking to allow the Writ Appeal filed by the appellant / petitioner and set aside the impugned order dated 07.09.2023 passed in W.P.No.26886 of 2005 and consequently, set aside the award of the first respondent dated 08.12.2004 in I.D.No.71 of 2003.



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In all appeals:

For Appellant : Mr.Krishna Srinivasan
Senior Advocate
for Mr.M.R.Dharanichander

For Respondents : R1 - Labour Court

Mr.K.M.Ramesh
Senior Advocate
for Mr.V.Subramaniam for R2

COMMON JUDGEMENT

(Judgement of this Court was delivered by M.S.RAMESH.J)

Since the issue involved in the present writ appeals are one and the same, they are clubbed together and disposed of by way of this common judgement.

2. Heard Mr.Krishna Srinivasan, learned senior counsel, for the appellant and Mr.K.M.Ramesh, learned senior counsel appearing for the second respondent in all Writ Appeals.



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3. When 18 of the workmen under the appellant / Management were retrenched, industrial disputes were raised by them before the I Additional Labour Court, Chennai and the retrenchment was upheld for 11 workmen. For the remaining 7 workmen, the retrenchment orders were set aside. When it ultimately came to be challenged by both the management as well as the aggrieved workmen, before a learned Single Judge of this Court in W.P.No.12903 of 2002 and 14710 to 14715 & 26881 to 26892 of 2005, the learned Single Judge had allowed the Writ Petitions filed by the 11 workmen and had dismissed the Writ Petitions filed by the management on the basis of the memo filed by the learned counsel for the management that they had no instructions. When the management had challenged the order of the learned Single Judge before a Co-ordinate Bench of this Court in W.A.Nos.1574, 1192, 1584, 1582, 1586, 1587, 1588, 1581, 1577, 1579 & 1585 of 2024, the impugned orders were set aside and the dispute was remanded back to the Writ Court for fresh adjudication. The relevant portion of the order reads as follows:

"13. In the case on hand, the main contention of the appellant/management is that the junior counsel



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who appeared for the appellant / management before the Writ Court, has erroneously made his submissions without finding out the correct facts regarding the functioning of appellant/management company and the learned Single Judge, based on the submissions of the counsel, after recording the memo regarding no instructions, dismissed their writ petitions without going into the merits of the matter. In the stated circumstances, the learned Single Judge, ought to have ordered fresh notice to the appellant company to the correct address of the appellant and if the notice found to be returned unserved, he ought to have directed the Registry to print the name of the appellant in the cause list. After printing the petitioner's name in the cause list, he may proceed to dismiss the case for reporting 'no instructions'. Without doing so, the learned Single judge simply dismissed the writ petitions filed by the Management based on the 'no instructions' report given by the petitioner counsel. Further, there is nothing on record to show that the appellant/management has been previously informed about the date of hearing of the case. In such a view of the matter, We are of the opinion that the order passed by the learned Single Judge is perverse.



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14.For the foregoing discussions, We set aside the impugned orders and remand back the matters to Writ Court for adjudicating the matters afresh. The learned Single Judge, shall take the matters for fresh consideration and pass orders on the same on merits and in accordance with law.

15.The Writ Appeals are allowed on the above terms. No Costs. Consequently, the connected Civil Miscellaneous Petitions are closed."

It is now represented by both the learned counsels that similar orders can be passed in the present Writ Appeals also.

3. In consideration of the above submissions, the order impugned in W.P.No.26886 of 2005 in the present Writ Appeals is set aside and the matter is remanded back before the learned Single Judge for fresh adjudication.



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M.S.RAMESH, J.
and
C.KUMARAPPAN, J.

Anu

4. Accordingly, these Writ Appeals stand disposed of. No Costs.

Consequently, connected miscellaneous petitions are closed.

[M.S.R., J] [C.K., J]

19.08.2024

Index: Yes/No

Internet: Yes/No

Neutral Citation: Yes/No

Anu

To

The Presiding Officer,
I Additional Labour Court,
Chennai.

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