



WEB COPY



W.P.No.32745 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.04.2024

CORAM:

THE HON'BLE DR JUSTICE D.NAGARJUN

W.P.No.32745 of 2022

Edward George,
Deputy Manager,
The Management,
M/s.YSI.Automotive Pvt. Ltd., having its
Industrial Establishment,
No.112, Singadi Vakkam Village,
Kanchipuram Taluk,
Kanchipuram – 631 561. ...Petitioner

Versus

P.Balachander
C/o Socialist Labourer Union,
No.19, Esani Murthy Kovil Street,
Thiruvotriyur,
Chennai – 631 561. ...Respondent

Prayer: This writ petition is filed under Article 226 of the Constitution of India, with a prayer to issue a writ of certiorari to call for the records order passed by the Learned Presiding Officer Labour Court, Kanchipuram in ID.No.40/2019 dated 19.11.2019.

For Petitioner : Mr.R.Ganesan

For Respondent : Mr.TSN.Prabhakaran



W.P.No.32745 of 2022

ORDER

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This writ petition is filed under Article 226 of the Constitution of India, with a prayer to issue a writ of certiorari to call for the records and to set aside the orders passed in ID.No.40/2019 dated 19.11.2019 by the Learned Presiding Officer Labour Court, Kanchipuram.

2. Originally ID.No.40/2019 dated 19.11.2019 was pending on the file of Labour Court, Chennai and the same was transferred to Labour Court, Kanchipuram. According to learned counsel for petitioner, the then counsel appearing for the petitioner in ID.No.40/2019 did not inform the Petitioner that ID.No.40/2019 was transferred to Labour Court, Kanchipuram, thereby, the Petitioner could not attend the Labour Court, Kanchipuram, on account of which *ex-parte* orders were passed by the Labour Court, Kanchipuram. It is further submitted by learned counsel for the petitioner that the respondent is not a workman under Section 2 (s) of the Industrial Disputes Act, 1947 and that he was only a trainee, he is not entitled for the relief sought for.



W.P.No.32745 of 2022

3. The learned counsel for the respondent/workman submits that even after transferring of the ID.No.40/2019 from Labour Court, Chennai to Labour Court, Kanchipuram, the petitioner counsel has appeared before the Labour Court, Kanchipuram and therefore, the respondent contention is that he was not having information about transferring of ID.No.40/2019 to the Labour Court, Kanchipuram is incorrect. However, learned counsel for the Respondent/Management has submitted that in case if *ex-parte* orders are being set aside, separate time frame has to be fixed for disposal of ID.

4. Considering, the submissions made by both the parties, since the petitioner is touching the core issue that the respondent is not a workman under Section 2 (s) of the Industrial Disputes Act, 1947, since the said aspect has not been considered by the Labour Court, Kanchipuram on account of the *ex-parte* orders passed by the Labour Court, Kanchipuram on 19.11.2019, this Court is of the opinion that the *ex-parte* order can be set aside by way of issuance of writ of certiorari, so that eventually both the parties will raise all the issues, and that the Labour Court can give finding on all the aspects on merits.



W.P.No.32745 of 2022

5. Accordingly, the Award passed in ID.No.40/2019 dated 19.11.2019 is set aside and ID.No.40/2019 is remitted back to the Labour Court, Kanchipuram, which is directed to dispose the ID.No.40/2019 as expeditiously as possible not later than four (4) months from the date of receipt of a copy of this order by following due process of law. The petitioner management, is directed to deposit 50 per cent of the money, payable to the Respondent/Workman before the Labour Court within 15 working days from the date of receipt of a copy of this order, and out of the deposited amount, the Respondent/Workman is at liberty to withdraw 50 per cent.

6. With the above observations and directions, this writ petition stands disposed of. There shall be no order as to costs.

05.04.2024
(3/4)

Index :Yes/No
Speaking :Yes/No
Neutral Citation Case:Yes/No
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W.P.No.32745 of 2022

DR D.NAGARJUN,J.
nst

W.P.No.32745 of 2022

05.04.2024
(3/4)