

(2014) 06 MAD CK 0174

In the Madras High Court

Case No : W.P. No. 29785 of 2013 and M.P. Nos. 1 to 3 of 2013

Mithra S.K. Private Limited

APPELLANT

Vs

Thiru R. Gopinath

RESPONDENT

Date of Decision : 04-06-2014

Acts Referred:

Industrial Disputes Act, 1947 — Section 2-A(2)

Citation : (2014) 06 MAD CK 0174

Hon'ble Judges : D. Hari Paranthaman, J

Bench : Single Bench

Judgement

D. Hariparanthaman, J.—By consent, the writ petition is taken up for final disposal.

2. The first respondent was employed as workman by the petitioner Management. He raised an industrial dispute in I.D. No. 430 of 2005 before the second respondent Labour Court regarding his non-employment. The second respondent Labour Court passed an ex-parte award dated 23.03.2010 in I.D. No. 430 of 2005 directing reinstatement of the first respondent with full backwages. Thereafter, the first respondent filed Execution Petition in E.P. No. 36 of 2011 before the second respondent Labour Court seeking for attachment of property for not complying with the award by not paying even the last drawn wages that comes to Rs. 3,33,008/-. Attachment was ordered by the Labour Court on 20.08.2013 in E.P. No. 36 of 2011. Thereafter, the writ petitioner deposited the amount.

3. In these circumstances, the petitioner has filed the present writ petition seeking to quash the ex-parte award dated 23.03.2010 passed in I.D. No. 430 of 2005.

4. Heard both sides.

5. The contents of the impugned award dated 23.03.2010 in I.D. No. 430/2005 is extracted hereunder:

AWARD

This Industrial Dispute has been raised by the petitioner u/s. 2-A(2) of the I.D. Act, 1947 to pass an award directing the respondent to reinstate the petitioner with continuity of service, back wages and all other attendant benefits with cost.

2) The respondent filed counter statement.

3) To-day the dispute is taken up for enquiry. W.W.1 called present at 13.10 hours. Counsel for petitioner is present. Respondent called absent. Counsel for respondent is not present. No representation for respondent. Today posted for cross examination as last chance. It is very long pending case. Sufficient time was given. Set exparte. W.W.1 was already examined and Ex.W.1 to Ex.W.3 were marked. Heard. Perused the I.D., counter, evidence of W.W.1, Ex.W.1 to Ex.W.3 and records. Claim is proved. Hence, this Industrial Dispute is allowed and the respondent is directed to reinstate the petitioner with continuity of service, full back wages and all other attendant benefits. No costs.

6. The impugned award was not passed on merits. It was ipse dixit without containing any reasons for allowing the claim of the workman. A Division Bench of this Court in the judgment reported in 1997 (1) L.L.J. 923 (Tamil Nadu Housing Board Vs. Presiding Officer II Additional Labour Court and another) and also the learned single Judge of this Court in the judgment reported in 2000 (3) L.L.N. 1025 (Tamil Nadu Minerals Ltd Vs. Presiding Officer, Industrial Tribunal and Others) have categorically held that even in the case of ex-parte award, the Labour Court should pass a detailed award on merits, otherwise, the same is liable to be set aside.

7. Accordingly, I am of the view that the impugned award is liable to be quashed and the same is quashed and the matter is remanded back to the second respondent Labour Court to decide the matter on merits within a period of six months from the date of receipt of a copy of this order. However, the petitioner Management is not permitted to withdraw the amount deposited till the disposal of the industrial dispute. If the industrial dispute is decided in favour of the first respondent workman ordering full backwages, the workman is permitted to withdraw the amount with the accrued interest, if the writ petitioner fails to challenge such an award within a period of three months after the receipt of the same. It is needless to state that in the event of writ petitioner succeeds, he is entitled to withdraw the amount along with accrued interest. In the meantime, the Labour Court is directed to keep the said amount in fixed deposit to the credit of I.D. No. 430 of 2005 initially for a period of six months and thereafter, renew it until the passing of the award. Since the first respondent workman has been without employment from 2004 onwards, the petitioner Management is directed to pay cost of Rs. 15,000/- to the first respondent workman, within a period of four weeks from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed.