

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2015

CORAM:

THE HONOURABLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HONOURABLE DR.JUSTICE P.DEVADASS

W.A.No.1601 OF 2015

AND

M.P.NO.1 OF 2015

The Factory Manager,
Hindustan Unilever Ltd.,
(Detergent Division),
Vadamangalam,
Pondicherry,
rep by Regional Legal Manager. ... Appellant

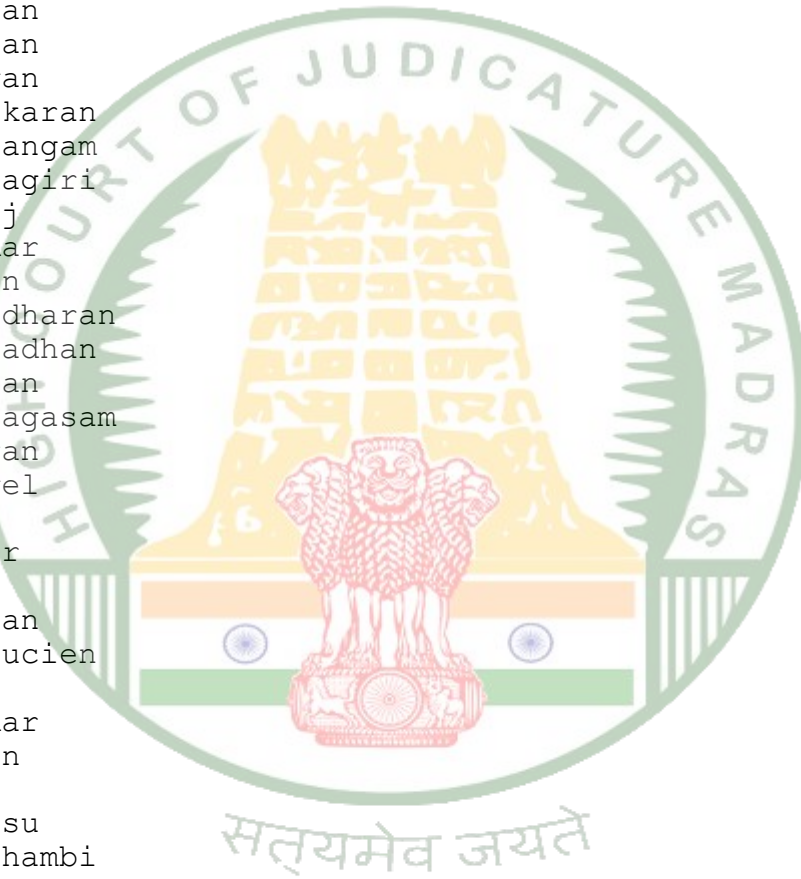
Vs.

1.The Presiding Officer,
Labour Court, Puducherry.

- 2.R.T.Shankar
- 3.R.Ezhilraj
- 4.K.Rajaram
- 5.T.Soundarrajan
- 6.S.Saminathan
- 7.D.Vengadapathy
- 8.S.Kannan
- 9.S.Krishnakumar
- 10.D.Nagaradjane
- 11.M.Neelakandan
- 12.L.K.Saravanan
- 13.T.Venkatesan
- 14.K.Vinayagam
- 15.S.Ganesan
- 16.N.Gopi
- 17.P.Murugaiyan
- 18.R.Ramani
- 19.R.Sekar
- 20.P.Sundar
- 21.M.Nagarajan
- 22.V.Sivakumar
- 23.P.Thirumurugan
- 24.S.Ayyanar
- 25.R.Azhagappan
- 26.J.Dandapani
- 27.D.Ettiyan
- 28.S.Ganesan
- 29.R.Govindan

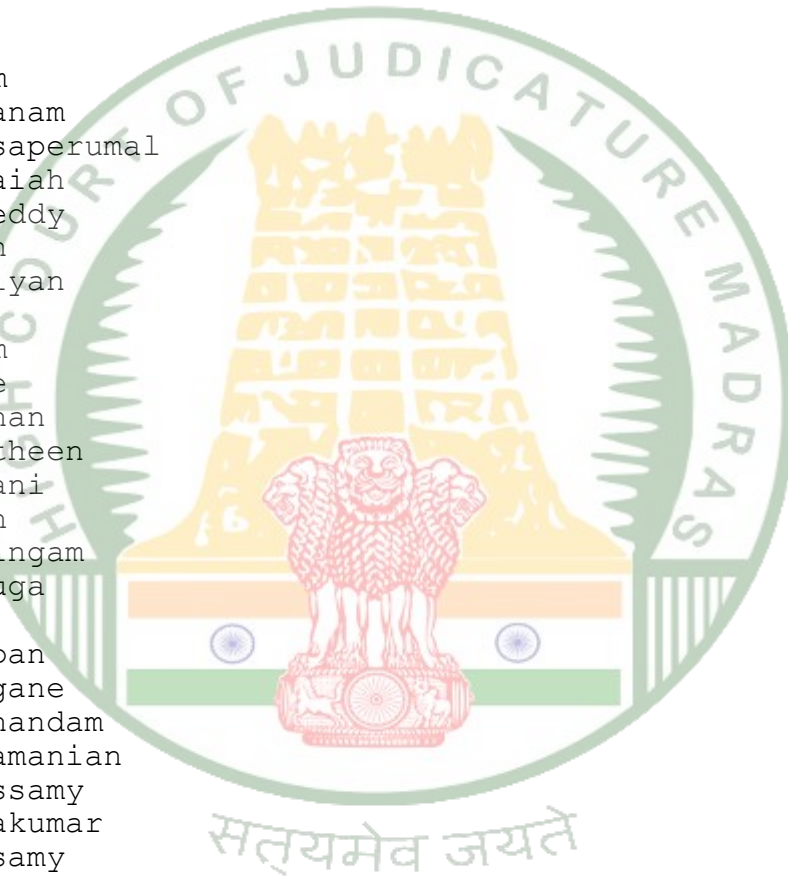
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30.N.Kumar
31.K.Muthukumaran
32.M.Murugan
33.R.Saravanan
34.R.Selvam
35.K.Senguttuvan
36.M.Sivakumar
37.N.Srinivasan
38.K.Velmurugan
39.K.Venkatachalam
40.K.Arumugam
41.A.Frederic Angeles
42.G.Karikalan
43.V.Parthiban
44.S.Vasudevan
45.D.Veerasekaran
46.K.Vijayarangam
47.V.Theerthagiri
48.M.Selvaraj
49.D.Arunkumar
50.K.Ayupkhan
51.S.Baraneedharan
52.P.Kalivaradhan
53.V.Manogaran
54.A.Mariapragasam
55.P.Mourougan
56.S.Sakthivel
57.S.Sankar
58.D.Sudhagar
59.R.Suresh
60.R.Parthiban
61.A.Marie lucien
62.S.Baskar
63.J.Sivakumar
64.V.Iyyappan
65.C.Ramesh
66.K.Sundarasu
67.T.Chinnathambi
68.A.Gopal
69.G.Kangeyan
70.N.Prakash
71.R.Sivakumar
72.R.Venkatesan
73.S.Baskar
74.B.Janakiraman
75.G.Kathiresan
76.K.Kuppusami
77.R.Lakshmanan
78.P.Murugan
79.S.Muthuvel
80.M.Sivakozhundan
81.D.Thulasinathan
82.R.Gouppoussamy



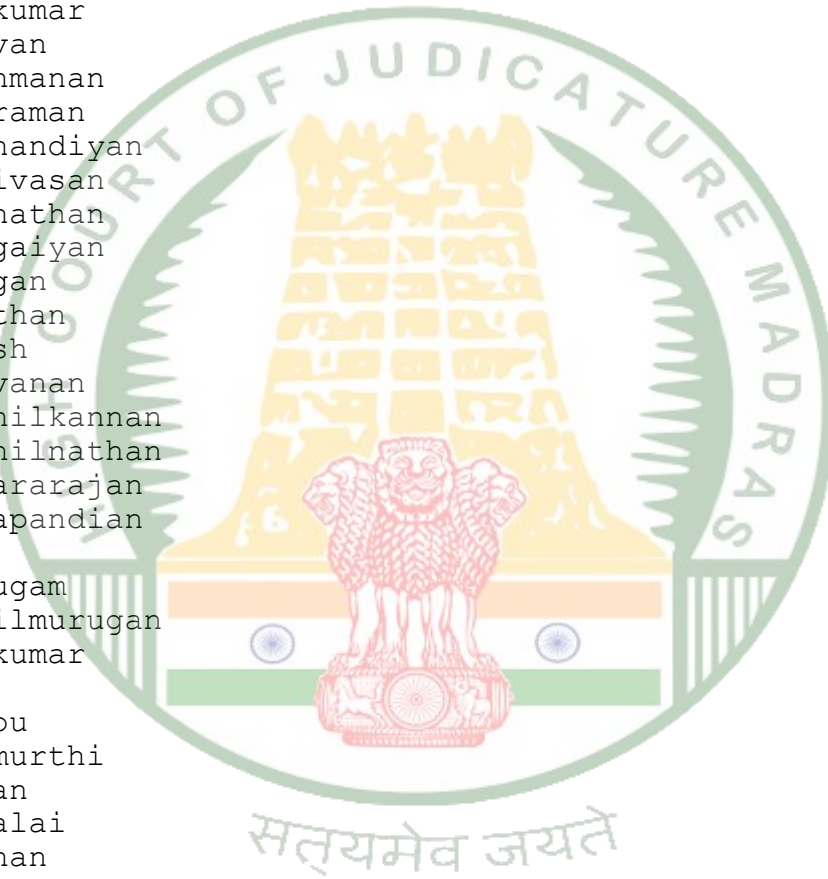
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83.S.Ethirasu
84.K.Muruganandam
85.S.Pakkirisamy
86.P.Varadarajan
87.R.Gnanaprakash
88.M.Gunalan
89.D.Kandeeban
90.K.Kumaran
91.K.Mandanagopalan
92.Masilamani
93.V.Meganathan
94.S.Nagoormeeran
95.Natarajan
96.S.Ramesh
97.T.Sandanam
98.K.Sudharsanam
99.K.Venkatasaperumal
100.C.Karuppaiah
101.J.Kondareddy
102.Kumaresan
103.K.Murugaiyan
104.E.Muthu
105.S.Rajaram
106.T.Rameche
107.R.Saravanan
108.S.Sirajutheen
109.G.Subramani
110.S.Souresh
111.M.Thulasingham
112.M.Jaimuruga
113.P.Ilango
114.R.Mariappan
115.S.Mourougane
116.K.Azhaganandam
117.Balasubramanian
118.P.Comarassamy
119.V.Krishnakumar
120.D.Kumarasamy
121.B.Raja
122.S.Rajasekaran
123.D.Ramajothi
124.J.Sivaraj
125.S.Thamaraikannan
126.R.Tulasidharan
127.Narayanamoorthy
128.V.Krishnarajusomaya
129.R.Saravanan
130.P.Arumugam
131.D.Krishnamurthi
132.P.Sunil Kumar
133.S.Thirumavalavan
134.M.Venkatachalapathy
135.S.Vettrivel



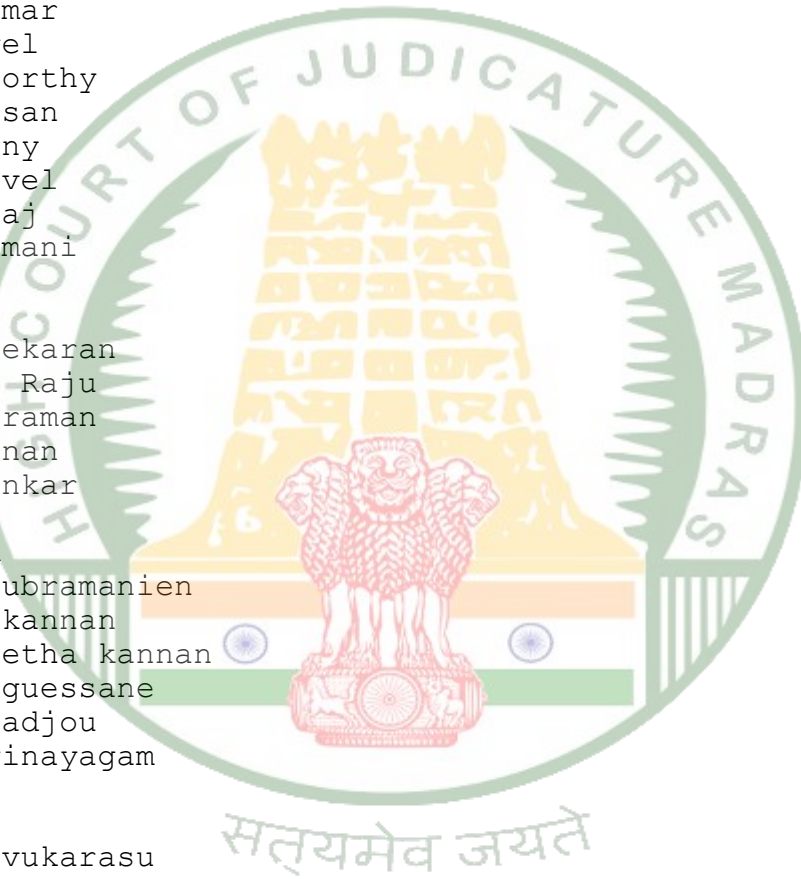
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136.R.Saminathan
137.S.Santhanampillai
138.M.Rameche
139.V.Duraisamy
140.Gunasekaran
141.S.Jayakumar
142.V.Jeyaraman
143.N.Krishnan
144.B.Kumar
145.M.Muthukumaran
146.V.Rangadurai
147.R.Baskaran
148.M.Jayakumar
149.K.Kesavan
150.R.Lekshmanan
151.S.Rajaraman
152.V.Sivanandiyan
153.R.Srinivasan
154.V.Loganathan
155.E.Murugaiyan
156.P.Murugan
157.M.Ananthan
158.K.Ramesh
159.S.Saravanan
160.M.Senthilkannan
161.K.Senthilnathan
162.T.Sundararajan
163.V.Veerapandian
164.B.Mani
165.V.Sanmugam
166.K.Sendilmurugan
167.Ganeshkumar
168.Mani
169.M.Radjou
170.J.Ramamurthi
171.M.Arunan
172.K.Elumalai
173.D.Kandhan
174.R.Mohan
175.D.Palanisamy
176.E.Perumal
177.J.Sivakumar
178.K.Suresh
179.V.Anbazhagan
180.S.Ramalingam
181.A.Amanullah
182.S.Vedhagiri
183.K.Alexander
184.A.Elango
185.R.Jayaraj
186.N.Mayakrishnan
187.N.Murugan
188.S.Murugan



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189.S.Prabaharan
190.S.Ramesh
191.K.Senthilvelan
192.M.Subramanian
193.V.K.Anbalagan
194.R.Ravi
195.V.Vissouvanadan
196.E.Ambrose Samidoure
197.D.Aroumougam
198.A.Dhanasekaran
199.P.Rajendran
200.K.Ramesh babu
201.L.Sivakumar
202.R.Gnanavel
203.D.Gurumoorthy
204.R.Kumaresan
205.P.Mandjiny
206.C.Sakthivel
207.S.Selvaraj
208.E.Tamizhmani
209.S.James
210.K.Asokan
211.S.Gnanasekaran
212.R.Joseph Raju
213.G.Parasuraman
214.K.Saravanan
215.S.Uma Sankar
216.E.Ramesh
217.N.Pramod
218.L.Balasoubramanien
219.K.Kamalakannan
220.A.Navaneetha kannan
221.S.Mourouguessane
222.S.Selvaradjou
223.V.Selvavinayagam
224.D.Sugu
225.S.Suresh
226.G.Tirunavukarasu
227.P.Adiamane
228.P.N.R.Selvasekar
229.D.Vincent de paul
230.M.Kandhasamy
231.V.Saravanan
232.K.Selvam
233.R.Arul
234.S.Ayanare
235.A.Chanbatcha
236.R.Devanathan
237.S.Elais
238.R.Lakshmanasamy
239.K.Makesh
240.S.Murugaiyan
241.A.G.Murugan



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242.D.Purushothaman
243.A.Rajaram
244.B.Saravanan
245.K.Sivamani
246.R.Veeramani
247.S.A.Veeramani
248.M.Vengadesan
249.G.Ezhumalai
250.B.Gopalakrishnan
251.M.Palanivel
252.K.Venkatasubbu
253.O.Babu
254.K.Vengadesan
255.S.Senthilkumar
256.M.Sivanandham
257.S.Sivamoorthy
258.R.Prabakaran
259.S.Rajaram
260.A.Suresh
261.R.Karthikeyan
262.K.Sivakumar
263.R.Thangadurai
264.P.Balachandar
265.R.Dhakshinamoorthy
266.K.Iyyanar
267.G.Pugazhchozhan
268.L.John Louiskennedy
269.D.Perumal
270.A.Thajudheen
271.S.Suresh Kumar
272.S.Rajesh
273.P.Canabady
274.S.Gobi
275.A.S.Sankar
276.M.Sentilcoumar
277.T.Sasikumar
278.S.Ashok

rep by Duraimurugan
President,
Hindustan Unilever Employees Union,
25, Bharathi Street,
Uthiravaganipet,
Villianur P.O.,
Puducherry-605 110.

... Respondents

Appeal filed under Clause 15 of the Letters Patent against the order passed by this Court dated 29.09.2015 passed in M.P.No.1 of 2015 in W.P.No.20216 of 2013.

Petitions praying that in these circumstances stated therein and in the affidavits filed. Therewith the High court will be pleased

i) to vacate the stay granted on 24.07.2013 in M.P.No.1 of 2013 in W.P.No.20216 of 2013, award costs (in M.P.No.1/2015 in WP No.20216/2013) and;

ii) to stay the operation, implementation and enforcement of the order in C.P.No.4 of 2011, dated 02.01.2013 passed by the 1st Respondent herein (in M.P.No.1/2013) pending disposal of WP.20216/2013.

Writ petition filed under Article 226 of the Constitution of India, seeking a writ of certiorari to call for the records from the file of the first respondent herein in C.P.No.4 of 2011 and quash the order dated 02.01.2013

For appellants : Mr.Sanjay Mohan
for M/s.S.Ramasubramanian & Asso.

JUDGMENT

(Judgment of the Court was made by SATISH K. AGNIHOTRI, J.)

The instant appeal arises from the order dated 29th September, 2015 passed in M.P.No.1 of 2015 in W.P.No.20216 of 2013.

2 Questioning the legality and validity of the order dated 2nd January, 2013 passed by the Labour Court in C.P.No.4 of 2011, the appellant management filed the writ petition. The learned Single Judge, while issuing notice, stayed the operation of the impugned order dated 2nd January, 2013 passed in C.P.No.4 of 2011 subject to depositing a sum of Rs.65,00,000/- to the credit of C.P.No.4 of 2011 on the file of the Labour Court, Puducherry. Thereafter, M.P.No.1 of 2015 was filed by the respondent employees, seeking to vacate the interim stay granted earlier. The learned Single Judge, vide impugned order dated 29th September, 2015 modified the earlier order, as under:

" 5.Considering the facts and circumstances of the case and arguments advanced by the learned counsels on either side and on perusing the typed set of papers, the Management filed a counter statement wherein they revealed that the employees do not cover the period prior to August 2007 for receiving the weekly day of rest, which is mandatory as per Labour law. As such, the employees are initiated to receive a portion of the deposited amount. Hence, this Court permits the employees to withdraw a sum of Rs.30,00,000/-, after filing a memo along with a copy of this order before the Labour Court. Accordingly, the above Miscellaneous Petition No.1 of 2015 in W.P.No.20216 of 2013 is ordered."

Thus, this appeal at the instance of the management.

3 The learned counsel appearing for the management would submit that the respondent employees are not entitled to payment of wages on the rest day under the provisions of the Minimum Wages Act. It is further contended that if the respondent employees are permitted to withdraw the amount, the same may not be recovered in the event the management succeeds.

4 The first respondent Labour Court, vide order dated 2nd January, 2013 allowed the claim petition filed by the respondent employees, directing the management appellant to pay weekly off salary from 1996 till date as per the Minimum Wages Act, 1948. Thereagainst, the writ petition was filed.

5 During the pendency of the writ petition, the aforestated impugned order was passed. There are in total 277 employees. If the association of the said employees is permitted to withdraw Rs.30 lakhs, the workmen may not be entitled to have substantial sum. Thus, at this stage, when the matter is sub judice and the interim relief is also subject to final decision in the pending writ petition, we are not inclined to examine the merit as to whether the respondent employees are entitled to payment of rest day wages or not. The issue is at large in the writ petition.

6 Having regard to the fact situation, we are not inclined to interfere with the impugned order. However, we make it clear that the interim order sought to be impugned shall not be cited in other cases as the same is passed in the peculiar facts of the case and will not create a precedent. Accordingly, the writ appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

vvk

To

The Presiding Officer,
Labour Court, Puducherry.

+1 cc to M/s.S.Ramasubramanian and Associates,
Advocates, sr.60792

W.A.No.1601 of 2015

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kra 23.11.2015