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W.P.Nos.21118, 25006 & 25007
2018 and 3306 & 6283 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.21118, 25006 & 25007 of 2018 and 3306 & 6283 of 2019
and
W.M.P.Nos.24780, 29047, 29048 of 2018

W.P.No.21118 of 2018:

The Management of
WS Industries India Limited
Mount Poonamalee High Road,
Porur, Chennai – 600 116.
Rep. by its Dy. Manager - HR

... Petitioner

Vs.

- 1.R.Samuel
- 2.A.Pakkiri
- 3.A.Rajendran
- 4.S.Asirvatham (Deceased)
- 5.G.Karuppaiah
- 6.R.Aruldoss @ Elumalai
- 7.P.Loganathan
- 8.B.Thambidurai
- 9.E.Amutha
- 10.Jothi Lakshmi



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11.Dhana Lakshmi

12.Kamesh

13.K.Kumar

14.A.V.Baskar

15.N.Ramesh Chandran

16.K.N.Rajendran

17.B.Prema

18.B.Sentamilselvan

19.B.Lavanya

20.P.Ravi

21.K.Jayaraman

22.A.Kalaivani

23.A.Agastin Samuel

24.Liney Karolin

... Respondents

[R22 to R24 substituted as LR's of deceased respondent R4 vide
order dated 12.07.2022 in WMP.No.7883/2022 in WP.No.21118/2018]

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records connected with the common order dated 28.02.2018 made in CP.Nos.384, 503, 550, 552, 553, 554, 557 and 558 of 2005, 124, 125 and 126 of 2006, 491 and 492 of 2013, 159, 208 and 613 of 2014 by the III Additional Labour Court, Chennai and quash the same.



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For Petitioner	: Mr.S.Ravindran Senior Counsel For Mr.S.Sai prasad For M/s.Sai Raaj Associates
For R1 to R6 & R8 to R24	: Mr.P.Kannan
For R7	: Not Ready in notice

W.P.No.25006 of 2018:

The Management of
WS Industries India Limited
Mount Poonamalee High Road,
Porur, Chennai – 600 116.
Rep. by its Dy. Manager - HR

... Petitioner

Vs.

1.R.Palanivelu
2.K.Ravi
3.K.Sekar (Deceased)
4.A.John
5.M.Dharmaraj
6.S.Jayanthi
7.S.Saranya
8.S.Saravanan
9.S.Sundaramurthy

... Respondents

[R6 to R9 substituted as LR's of deceased Respondent R3 vide order dated 12.07.2022 in WMP.No.7891/2022 in WP.No.25006/2018]



W.P.Nos.21118, 25006 & 25007
2018 and 3306 & 6283 of 2019

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records connected with the common order dated 28.02.2018 made in CP.Nos.137, 555, 556, and 549 of 2005 and 481 of 2013 on the file of the III Additional Labour Court, Chennai and quash the same.

For Petitioner	: Mr.S.Ravindran Senior Counsel For Mr.S.Sai prasad For M/s.Sai Raaj Associates
For R1, R2 & R4 to R9	: Mr.P.Kannan
For R3	: Deceased

W.P.No.25007 of 2018:

The Management of
WS Industries India Limited
Mount Poonamalee High Road,
Porur, Chennai – 600 116.
Rep. by its Dy. Manager - HR

... Petitioner

Vs.

1.G.Premkumar
2.K.Samiraj (Deceased)
3.V.Sathyamoorthy



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4.R.Sampath

5.D.Perumal

6.S.Dhanalakshmi

7.S.Karthikeyan

8.S.Nivedha

9.K.Subbuthai

... Respondents

[R6 to R9 substituted as LR's of deceased Respondent R2 vide order dated 06.08.2019 in WMP.No.20127/2019 in WP.No.25007/2018]

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records connected with the common order dated 28.02.2018 made in CP.Nos.358, 359, 361 to 363 of 2005 on the file of the III Additional Labour Court, Chennai and quash the same.

For Petitioner : Mr.S.Ravindran
Senior Counsel
For Mr.S.Sai prasad
For M/s.Sai Raaj Associates

For R1, R3 to R9 : Mr.P.Kannan

For R2 : Deceased

W.P.No.3306 of 2019:

A.John

... Petitioner

Vs.



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The Management of W.S Industries (India) Ltd.,
Porur, Chennai 600 116.

... Respondent

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Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the entire records in connection with impugned common order dated 06.07.2018 in Memo filed in C.P.No.549 of 2005 passed by the IIIrd Additional Labour, Chennai and quash the same in so far as the petitioner is concerned in Claim petition No.549 of 2005 and grant interest @ 9% from the date of filing Claim petition No.549 of 2005 to till the date of disposal.

For Petitioner : Mr.P.Kannan

For Respondent : Mr.S.Ravindran
Senior Counsel
For Mr.S.Sai prasad
For M/s.Sai Raaj Associates

W.P.No.6283 of 2019:

R.Palanivel

... Petitioner

Vs.

The Management of W.S Industries (India) Ltd.,
Porur, Chennai 600 116.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the entire records in connection with impugned common order dated 06.08.2018 in Memo filed in C.P.No.137 of 2005 passed by the IIIrd Additional Labour, Chennai and



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quash the same in so far as the petitioner is concerned in Claim petition No.137 of 2005 and not granting interest @ 9% from the date of filing Claim petition No.137 of 2005 to till the date of disposal.

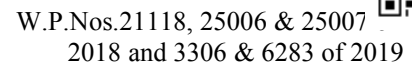
For Petitioner : Mr.P.Kannan

For Respondent : Mr.S.Ravindran
Senior Counsel
For Mr.S.Sai prasad
For M/s.Sai Raaj Associates

COMMON ORDER

The common award dated 28.02.2013, 06.07.2018 and 06.08.2018 passed by the III Additional Labour Court, Chennai is under challenge in these writ petitions.

2. The writ petitioner is WS Industries India Limited. The respondent / workmen filed Claim Petitions under Section 33C(2) of the Industrial Disputes Act, 1947 to award monetary benefits from their initial date of appointments and by granting permanent status.



3. The learned Senior Counsel for the Management mainly contended

“11. From the foregoing discussions, it is clear that the respondent management should confirm the 283 workmen concerned in this dispute on the date on which each one of them had completed 480 days of service within a period of two years and also should give them the salary and other benefits extended to permanent workmen.

In the result award is passed holding that the management should confirm the 283 workmen concerned in this dispute on the date on which each one of them had completed 480 days of service within a period of two years and also give them the salary and other benefits extended to the permanent workmen. No costs.”



4. Relying on the above award of the Industrial Tribunal, the learned counsel for the respondents /Workmen reiterated that the workmen are entitled for the benefits on completion of 480 days of service. As per the award and accordingly, the Claim Petition was filed, which was considered by the Industrial Tribunal and thus, there is no infirmity and the writ petition is to be rejected.

5. The learned Senior Counsel appearing on behalf of the writ petitioner / Management mainly contended that the Claim Petitions were filed after a lapse of 8 years from the award dated 27.03.1997 passed in ID.No.5 of 1991 by the Industrial Tribunal. During the interregnum period, settlements were entered into between the Management and the Workers Union and the individual workman also signed the agreements and received several benefits and those considerations were not adjudicated before the Labour Court. Importantly, on completion of 480 days of services and the date on which the workmen are entitled for permanent status had not been determined by the Labour Court in the Claim Petitions and more so, the said date was not decided by the Industrial Tribunal in its award dated 27.03.1997. In the absence of determining the date from which an



individual workman is entitled for permanent status, the Claim Petitions are not entertainable and the Labour Court en masse granted relief without determining the date from which an individual workman is entitled for benefits based on the award dated 27.03.1997 in the ID.No.5 of 1991.

6. Perusal of the award passed by the Industrial Tribunal in ID.No.5 of 1991, reveals that the workmen were working in the petitioner's factory for a period ranging from two to ten years, but they were employed intermittently when exigencies aroused. However, no documents were produced by the Management during that relevant point of time to determine the date of completion of 480 days of service in respect of individual workmen. Under those circumstances, the Industrial Tribunal passed an award that the Management should confirm 283 workmen concerned in the dispute on the date on which each one of them had completed 480 days of service within the period of two years and also give them the salary.

7. Pertinently, the Industrial Tribunal had not determined the date of eligibility for grant of conferment of permanent status to get salary.



8. The impugned order passed in the Claim Petitions reveals that the dispute regarding completion of 480 days of services in respect of each individual workmen had not been decided. The dispute in this aspect was left as it is and neither the Industrial Tribunal nor the Labour Court in the Claim Petitions had decided the date from which the individual workman is entitled for grant of permanent status and salary.

9. The Government of Tamil Nadu in the order of reference raised the issue “*whether the demand of permanency of the following workman is justified; to what relief these workmen are entitled*”. As far as the demand of permanency is concerned, the workmen are entitled based on the award dated 27.03.1997 in ID.No.5 of 1991. However, from which date they are entitled for such permanent status is to be determined in respect of each individual workman concerned, based on their date of initial appointment and completion of 480 days of services in two consecutive years. Thus, the issue relates to the date on which the individual workmen are entitled for confirmation for permanent status and salary is to be determined and only then, the Claim Petitions are to be considered for the purpose of grant of relief. In the absence of determining the date of eligibility, it may not be



possible to grant relief and therefore, the order passed by the Labour Court in Claim Petitions are perverse and the relief was granted without adjudicating the issues regarding the date from which the permanent status is to be granted to the individual workmen and the said issue was left open both by the Industrial Tribunal in the year 1997 and by the Labour Court in the impugned order.

10. This Court is of the considered opinion that the issues are to be decided with reference to the documents and evidences made available with the parties. Thus, the case is to be remanded back for fresh adjudication.

11. (1) Accordingly, in respect of W.P.No.21118 of 2018 the impugned common order dated 28.02.2018 passed in C.P.Nos.384, 503, 550, 552, 553, 554, 557 and 558 of 2005, 124, 125 and 126 of 2006, 491 and 492 of 2013, 159, 208 and 613 of 2014 by the III Additional Labour Court, Chennai are quashed.

11. (2) Accordingly, in respect of W.P.No.25006 of 2018 the impugned common order dated 28.02.2018 passed in C.P.Nos.137, 555, 556



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and 549 of 2005 and 481 of 2013 by the III Additional Labour Court, Chennai are quashed.

11. (3) Accordingly, in respect of W.P.No.25007 of 2018 the impugned common order dated 28.02.2018 passed in C.P.Nos.358, 359, 361 to 363 of 2005 by the III Additional Labour Court, Chennai are quashed.

11. (4) Accordingly, in respect of W.P.No.3306 of 2019 the impugned common order dated 06.07.2018 passed in C.P.No.549 of 2005 by the III Additional Labour Court, Chennai is quashed.

11. (5) Accordingly, in respect of W.P.No.6283 of 2019 the impugned common order dated 06.08.2018 passed in C.P.No.137 of 2005 by the III Additional Labour Court, Chennai is quashed.

12. The matters are remanded back to the Labour Court for fresh consideration. The Labour Court is directed to accept additional documents and evidences if any from the parties concerned and adjudicate the issues and determine the date from which the individual workmen are entitled for



grant of conferment of permanent status and for salary and thereafter, decide the issues afresh on merits and in accordance with law and by affording an opportunity to all the parties concerned.

13. The said exercise is directed to be completed within a period of six (6) months from the date of receipt of copy of this order. The time bound direction is subject to the cooperation of the parties and the parties are directed not to seek unnecessary adjournments on flimsy grounds. The amount already deposited by the petitioner Management is to be taken into consideration after the disposal of the Claim Petitions and by following the procedures.

14. The workmen filed separate writ petitions in W.P.Nos.3306 and 6283 of 2019 claiming interest, which was not considered by the Labour Court, while passing award in the Claim Petitions. Since the matter is remanded back, the Labour Court is at liberty to decide the issue for grant of interest, if otherwise workmen are entitled in accordance with law and on merits.



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15. With the above directions, the Writ Petitions are allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

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Jeni
Index : Yes
Speaking order

To

The III Additional Labour Court,
Chennai.



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S.M.SUBRAMANIAM, J.

Jeni

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