



WP.No.685 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 09.11.2022

Coram:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

**W.P. No.685 of 2010
and M.P.Nos.1 of 2010 & 1 of 2012**

Management of
Manali Petrochemical Ltd.,
rep.by its Managing Director
Ponneri High Road
Manali, Chennai – 600 068.

... Petitioner

Vs.

1.The Presiding Officer
Industrial Tribunal
Chennai – 600 104.

2.Manali Petrochemical Limited
Technical Employees' Union (MPLTEU)
rep.by its General Secretary
(Registration No.1178/CPT)
Ponneri High Road, Manali
Chennai – 600 068.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records of the 1st respondent in Complaint Nos.4 and 5 of 2007 and quash the same.



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For Petitioner : Mr.Anand Gopalan
for M/s Gopalan & Co
For Respondents : No appearance

ORDER

Challenging the order dated 30.11.2009 passed by the Labour Court /
1st respondent in a Complaint Nos.4 and 5 of 2007, the petitioner -
Management has filed the present Writ Petition.

2.It is the case of the 2nd respondent that one S.Thomas belongs to the
2nd respondent Union, while working in the petitioner Management
internally transferred from one department to another department in the
factory. However, the said Thomas refused to join in the new department.
Therefore, the petitioner – Management dismissed him from service. As
against the said transfer as well as the dismissal from service, the 2nd
respondent Union raised industrial disputes before the Labour Court in
I.D.Nos.93 and 94 of 2008.

3.Meanwhile, when the transfer order was passed, the 2nd respondent



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Union also filed complaints under Section 33A of the Industrial Disputes Act, 1947, alleging that the petitioner Management violated the provisions under Section 33 of the said Act. The said complaints were numbered as 4 and 5 of 2007 and the Labour Court by its order dated 30.11.2009 declared that the order of transfer and order of dismissal are illegal and consequently directed the petitioner Management to permit the said workman to join duty. Aggrieved against the said award, the present Writ Petition has been filed.

4.Though notice has been served on the 2nd respondent, there is no representation on behalf of the Union either in person or through counsel.

5.Heard the learned counsel for the petitioner and perused the materials available on record.

6.It is an admitted fact that there are certified standing orders available for the petitioner Management as required by the Industrial Employment Standing Orders Act 1946. The workman – Thomas was transferred from Plant II to Propylene Glycol plant. If any misconduct is reported, the



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petitioner Management can initiate disciplinary action and if the workman is found guilty, the Management can award punishment. Non obeying the orders of the petitioner Management by the workman, invented the further legal proceedings.

7. Normally it is for the employer and not for the workman to decide as to what work is to be done by the workman. The evidence of M.W.1, marked before the Court below, clearly establishes that the appointment order itself contains the clause for transfer and the standing orders also provide for transfer and that similar transfers have been made in respect of other workers in Plant II also.

8. Further, the disciplinary proceedings were initiated only in accordance with the Standing orders, there is no contravention of Section 33 of the ID Act. In such view of the above facts and circumstances of this case, order dated 30.11.2009 passed by the Labour Court / 1st respondent in a Complaint Nos.4 and 5 of 2007, is set aside. The Writ Petition stands allowed. No costs. Consequently connected miscellaneous petitions are



closed.

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Index: Yes/No
Internet: Yes/No
Speaking Order: Yes/No
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To
The Presiding Officer
Industrial Tribunal
Chennai – 600 104.

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