



W.P.Nos.31598 & 31599 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2023

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

Writ Petition Nos.31598 & 31599 of 2013
and M.P.Nos.1 and 1 of 2013

W.P.No.31598 of 2013

M/s.Tamil Nadu Industrial Explosives Pvt Ltd,
represented by its General Manager (Works)
TEL Post, Vellore – 632 509.

.... Petitioner

-Vs-

1.Lalitha

2.Amul

(RR 1 & 2 were impleaded as LR's of
deceased Chinnakannu - petitioner
before Labour Court)

3.Labour Court represented by
its Presiding Officer, Vellore

.... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records relating to the order passed by the 3rd respondent dated 19.09.2013 made in C.P.No.38 of 2012.

W.P.No.31599 of 2013

M/s.Tamil Nadu Industrial Explosives Pvt Ltd,
represented by its General Manager (Works)
TEL Post, Vellore – 632 509.

.... Petitioner

-Vs-

1.G.Teekaraman

2.Labour Court represented by
its Presiding Officer, Vellore

.... Respondents



W.P.Nos.31598 & 31599 of 2013

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records relating to the order passed by the 2nd respondent dated 19.09.2013 made in C.P.No.107 of 2012.

For Petitioner : Mr.Abdul Wahab
in both WPs for M/s.K.V.Subramanian Associates

For Respondents : Mr.S.T.Varadarajulu– for R1 & R2
in W.P.No.31598/2013 and
R1 in W.P.No.31599/2013
R3 - Court in WP 31598/2013
R2 - Court in WP 31599/2013

COMMON ORDER

Since the issue in both the writ petitions is common, these writ petitions are taken up together and disposed of by this common order. For the sake of convenience, the parties are referred to as Management and Workmen.

2. The Management had dismissed the workmen from service. Therefore, I.D.No.80 of 2003 was raised by Chinnakannu and I.D.No.81 of 2003 was raised by Teekaraman. By an award dated 21.11.2007, the labour Court set aside the order of termination of the workmen and directed reinstatement together with continuity in service. However, it rejected the claim for back wages and all other benefits. Challenging the award, the writ petitions in W.P.Nos.13392 and 13393 of 2009 were filed before this Court. They were clubbed with another writ petition challenging I.D.No.82 of 2003 and a common order was passed on



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31.10.2011. This Court was pleased to confirm the award of the labour Court and dismissed all the writ petitions. Against the award of the labour Court, appeals were preferred in W.A.Nos.636, 637 and 638 of 2012 . More about the order in the writ appeals later.

3. As the award of the labour Court had not been satisfied and since appeals have been preferred as against the award of the labour Court, the workmen moved an application under Section 17B in M.P.No.1 of 2014. By an order dated 23.04.2014, this Court had directed the Management to pay 17B wages pending disposal of the writ appeals. In compliance with the order of this Court, the Management paid a sum of Rs.2,11,149/- to Mr.Teekaraman / 1st respondent in W.P.No.31599 of 2013 and a sum of Rs.2,66,819/- to the legal representatives of Chinnakannu / respondents in W.P.No.31598 of 2013.

4. Mr.Abdul Wahab, learned counsel for the petitioner Management would submit that 17B wages as claimed by the workmen having been paid, nothing remains to be adjudicated in the present writ petitions. He would invite my attention to the order passed in W.A.Nos.636 to 638 of 2012 and the clarification petition filed on behalf of the workmen in C.M.P.No.3912 of 2022 to substantiate his argument.



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5. A perusal of the order passed by this Court in W.A.Nos.636 to 638 of 2012 dated 24.06.2021 would show that, all that this Court had done was to record the submission of the learned counsel for the Management and close the writ appeals. Insofar as the modification is concerned, the claim that was made before the writ appellate Court in C.M.P.No.3912 of 2022 was that the workmen are entitled to claim backwages and other benefits. The writ appellate Court, with respect, had come to the conclusion that, as the labour Court had specifically stated in respect of back wages and other benefits, the application is dismissed and there is no necessity to clarify the order. On the strength of these two orders, Mr.Abdul Wahab would submit that nothing is payable, as Section 17B wages had been paid in entirety and satisfaction memo had also been filed to the effect that the same had been received by the workmen.

6. Mr.S.T.Varadarajulu, learned counsel appearing for the workmen would point out that what was paid was, Section 17B wages pursuant to the order in M.P.No.1 of 2014 in W.A.Nos.636 to 638 of 2012. Insofar as the clarification, he pointed out that the Court had come to the conclusion that the workmen is not entitled to back wages and other benefits and that this Court never decided the issue whether the workmen is entitled to the wages from the date of the award till the date of death of Chinnakannu on 03.08.2012.



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7. I am afraid, I am unable to agree with the argument of Mr.Abdul Wahab, learned counsel for the petitioner Management. What has been paid in compliance to the order is only Section 17B wages. Section 17B wages only refers to the last drawn wages of the workman on the date of order terminating the service was passed. When a workman has been granted the benefit of reinstatement and continuity of service and all other benefits, he is automatically entitled to the same from the date of the order. The award in I.D.Nos.80 and 81 of 2003 was passed on 21.11.2007. Therefore, from 21.11.2007 the workmen will be entitled to the benefits and it is those benefits that have been conferred by the impugned order. Those benefits cannot be treated as 'back wages and other benefits' within the meaning of the award passed by the labour Court. If the argument of the learned counsel for the Management that when Section 17B wages are paid, it is only till the disposal of the appeal and since Section 17B wages have been paid, the dues of the workmen have been fully settled is accepted, I feel it is a perversity of justice and it would amount to ignoring the award of the labour Court, which has ordered reinstatement.

8. I am of the firm view that the Industrial Dispute having gone against the Management, the writ petitions having been dismissed and the writ appeals also having been closed at the instance of the Management, the Management is due and liable to pay all the dues that the workmen are entitled from the date of



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the award till the date of attaining superannuation (in the case of Teekaraman) and till the date of death (in the case of Chinnakannu).

9. The award of the labour Court that the legal representatives of Chinnakannu (1st and 2nd respondents in W.P.No.31598 of 2013) are entitled to be paid from 21.11.2007 to 24.04.2012 is correct and similarly, with respect to Teekaraman (1st respondent in W.P.No.31599 of 2013), he is entitled to be paid from 21.11.2007 to 16.07.2012 is correct. The labour Court has also directed adjustment of the amounts already paid from 14.07.2009 to July 2012. No further adjustments need to be made. The workmen are entitled to be paid the dues under Section 17B wages as well as other benefits which had been paid to workmen, who had been similarly situated like the workmen in the present cases. The amounts not having been paid, the same shall be paid by the Management along with simple interest at the rate of 9% from 19.09.2013 till the date of payment. With the above directions, the writ petitions are dismissed. No costs.

27.02.2023

Index : Yes/No
Neutral Citation : Yes/No
Speaking Order / Non-speaking order
KST



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To
The Presiding Officer
Labour Court
Vellore.



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V. LAKSHMINARAYANAN, J.

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