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W.P.Nos.21223, 21227 & 21231 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.Nos.21223, 21227 & 21231 of 2019

and

**W.M.P.Nos.20427, 20432, 20428, 34369, 34376, 34383, 34386, 34390,
34393, 34400, 34403, 34406, 34408, 34414, 34417, 34373, 34377, 34384,
34388, 34391, 34398, 34402, 34404, 34407, 34412, 34415 & 34422 of
2019**

W.P.No.21223 of 2019

The Managing Director,
Tamil Nadu State Marketing Corporation Limited,
Thalamuthu Natarajan Maaligai,
Gandhi Irwin Road,
Egmore, Chennai – 600 008.

Vs.

1. K.A.Ramesh
2. B.Ravi
3. B.J.Ranjaraj
4. N.Mani
5. K.Sivakumar
6. M.Viswalingam
7. H.Babu Karunakaran
8. V.Gurusamy Pandian
9. M.Dinakaran
- 10.K.Subramanian
- 11.P.R.Somasundaram
- 12.S.Krishnan
- 13.N.Subramani
- 14.L.Ganesan



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- 15.S.Sampathykumar
- 16.N.Namasivayam
- 17.B.Kumar
- 18.K.R.Sivakumar
- 19.K.N.Raju
- 20.L.Singaran
- 21.J.Nagarajan
- 22.T.Arjunan
- 23.N.Rajkumar
- 24.M.Ravindran
- 25.S.Rasultheen
- 26.R.Saravanan
- 27.R.Kumar
- 28.R.Saravanan
- 29.P.Karikalan
- 30.U.Thangavel
- 31.R.Sivaraman
- 32.V.Pakkirisamy
- 33.N.Samsudeen
- 34.M.Sugumaran
- 35.A.Kaliaperumal
- 36.R.A.Rajeswaran
- 37.G.Sridharan
- 38.P.Chandran
- 39.B.Jayamraj
- 40.M.Anandan
- 41.K.Ramamoorthy
- 42.K.Manikannan
- 43.M.Sekar
- 44.M.Mani
- 45.K.Jaisankar
- 46.S.Saseendran
- 47.B.Ramakrishnan
- 48.R.Rajendran
- 49.N.Chandrasekaran
- 50.C.Chidambaram
- 51.N.Kannan
- 52.G.M.Ayyavu
- 53.P.Ramasamy



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- 54.N.Senthilkumar
- 55.K.Raman
- 56.S.Ashok Kumar
- 57.A.Palanisamy
- 58.A.Kumaran
- 59.R.Senthilkumar
- 60.M.Selvan
- 61.G.Jayaraman
- 62.S.R.Ravi
- 63.N.Rajendran
- 64.B.Ramesh
- 65.K.Mani
- 66.K.N.Bheman
- 67.A.Chandran
- 68.M.Thirumalairaja
- 69.N.Vaithilingam
- 70.V.Balamurugan
- 71.G.Karuppasamy
- 72.R.Nandakumar
- 73.T.Mugilan
- 74.K.Chellamani
- 75.B.R.Chandran
- 76.T.Murthy
- 77.M.Vadivel Murugan
- 78.K.Pandian
- 79.S.Senthilkumaran
- 80.I.Rajan
- 81.P.Rajapandi
- 82.P.Paulraj
- 83.M.Arumugam
- 84.S.Bakiaraj
- 85.M.Balakrishnan
- 86.P.Velmurugan
- 87.M.Paulsamy
- 88.T.Murugan
- 89.R.Subramanian
- 90.K.Chandrasekaran
- 91.S.Chidambaram
- 92.P.Thirupathi



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- 93.S.Ganesan
- 94.V.Gomathinathan
- 95.S.Ravi
- 96.M.Nandeeswaran
- 97.M.Jaganathan
- 98.T.Sathaiah
- 99.S.Regunathan
- 100.M.Raj
- 101.V.Sampathkumaran
- 102.T.Gowthaman
- 103.K.Madeswaran
- 104.R.Mohanasundaram
- 105.M.Chinnusamy
- 106.P.Madhiyazhagan
- 107.P.Krishnamoorthi
- 108.J.Loordhusamy
- 109.G.Murugan
- 110.R.Sivaraman
- 111.K.Shanmugam
- 112.M.Mani
- 113.V.Perumal
- 114.M.Muthuraman
- 115.S.Selvarasu
- 116.A.Manoharan
- 117.N.Uthrakumar
- 118.N.Rajkumar
- 119.S.Palani
- 120.K.K.Ravishankar
- 121.P.Selvam
- 122.S.Ezhilarasan
- 123.D.Palanisamy
- 124.B.Belliraj
- 125.A.Sureshkumar
- 126.P.Saravanakumar
- 127.R.Yuvaraj
- 128.S.Gundan
- 129.M.Manimaran
- 130.N.T.Ganesan
- 131.K.Manoharan



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- 132.A.Ganesan
- 133.L.Bojaraj
- 134.R.Manogaran
- 135.S.Selvaraj
- 136.D.Ravikumar
- 137.K.R.Siva
- 138.C.Sivakumar
- 139.S.Unnikrishnan
- 140.B.Kumar
- 141.S.Karuppasamy
- 142.N.Ponnusamy
- 143.M.Jayapandi
- 144.J.K.Narayanan
- 145.S.Halan
- 146.N.Sivakumar
- 147.T.Ramachandran
- 148.V.Nagarajan
- 149.K.Jayakumar
- 150.K.Viswanathan
- 151.P.Pasupathi
- 152.P.Arjunan
- 153.R.Krishnasamy
- 154.V.Thamizharasan
- 155.S.Arjunan
- 156.P.Velusamy
- 157.K.M.Periyasamy
- 158.A.Karikalan
- 159.A.Kasiviswanathan
- 160.V.N.Aruna
- 161.M.S.Ponnurangam
- 162.S.Viswanathan
- 163.C.Kannan
- 164.M.Kannadasan
- 165.M.Johnson
- 166.K.Vasanth

Rep. by M/s.Tasmac Oozhiyar Maanila Sammelanam (CITU),
27, Mosque Street,
Chepauk, Chennai – 600 005.

... Respondents



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W.P.No.21227 of 2019

The Managing Director,
Tamil Nadu State Marketing Corporation Limited,
Thalamuthu Natarajan Maaligai,
Gandhi Irwin Road,
Egmore, Chennai – 600 008.

Vs.

1. Nagappan
2. V.Gopi
3. P.M.Perumal
4. R.Vasu
5. M.Palani
6. J.Ramesh
7. N.Andiyappan
8. D.Koteeswaran
9. P.S.Danapal
- 10.A.Jayamohan
- 11.D.Kesavan
- 12.G.Sadanandan
- 13.M.Gajendran
- 14.C.Venkatesan
- 15.D.Jaigar
- 16.L.Rajesh
- 17.R.Venkatesan
- 18.B.Stanley
- 19.K.Vinothan
- 20.M.Murugan
- 21.D.Prabhu
- 22.K.Sridhar
- 23.M.Dilli Baskar
- 24.S.S.Sambasivam
- 25.B.M.Sivalingam
- 26.C.Suresh

Rep. by M/s.Tasmac Oozhiyar Maanila Sammelanam (CITU),
27, Mosque Street,
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... Respondents



W.P.Nos.21223, 21227 & 21231 of 2019

W.P.No.21231 of 2019

The Managing Director,
Tamil Nadu State Marketing Corporation Limited,
Thalamuthu Natarajan Maaligai,
Gandhi Irwin Road,
Egmore, Chennai – 600 008.

Vs.

1. S.Venkatesalu
2. G.Thirunavukarasu
3. J.Murugan
4. P.Nandagopal
5. M.A.Saravanan
6. K.Kesavan
7. R.Ravikumar
8. S.Raghu
9. A.Rajkumar
- 10.M.Charles Suresh Kumar
- 11.M.Srinivasan
- 12.J.Deivasigamani
- 13.A.G.Ravi
- 14.M.V.Ramadoss
- 15.K.Chandran
- 16.M.S.Thanigaivel Rajan
- 17.T.D.Kumar
- 18.S.Karthikeyan
- 19.E.Shanmugam
- 20.S.Viswanathan
- 21.K.Balaji
- 22.V.M.Iyappan
- 23.R.Arunagiri
- 24.G.Ravichandran
- 25.S.Suresh
- 26.K.N.Sivasankaran
- 27.A.Manigandan
- 28.N.E.Harikrishnan
- 29.V.Sivaraman



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30.T.Kannaiah
31.K.Kesavan
32.A.Srinivasan
33.V.Sankaran
34.M.K.Bakayaraj
35.D.S.Rohini Kumar
36.D.Ramesh
37.E.Selvakumar

Rep. by M/s.Tasmac Oozhiyar Maanila Sammelanam (CITU),
27, Mosque Street,
Chepauk, Chennai – 600 005.

... Respondents

Prayer in W.P.No.21223 of 2019 : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records relating to the Common order dated 6.2.2019 passed in C.P.No.2418 to 2576 of 2011 and 507, 518, 527, 529, 531 & 537 of 2014 on the file of the III Additional Labour Court, Chennai and quash the same.

Prayer in W.P.No.21227 of 2019 : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records relating to the common order dated 6.2.2019 passed in C.P.Nos.469 to 473, 483 to 484, 497, 501 to 505, 509, 513, 515, 520, 522, 524, 528, 530, 532 to 533 and 535 to 536 of 2014 on the file of the III Additional Labour Court, Chennai and quash the same.

Prayer in W.P.No.21231 of 2019 : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records relating to the common order dated 6.2.2019 passed in C.P.Nos.474 to 478, 480 to 482, 485 to 496, 498 to 500, 506, 508, 510 to 512, 514, 516, 517, 519, 521, 523, 525, 526 & 538 of 2014 on the file of the III Additional Labour Court, Chennai and quash the same.



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For Petitioner : Mr.Sanjoy Mohan, SC
for M/s.K.Sathish Kumar

For Respondents : Mr.V.Ajoy Khose

COMMON ORDER

Since the issue involved in these writ petitions being one and the same, with the consent of the learned counsel appearing for both sides, these writ petitions were heard together and disposed of by this common order.

2. The case of the petitioner Corporation/TASMAC is that, it is a Government Company registered under the provisions of the Companies Act and is wholly owned by the Government of Tamil Nadu. It is a marketing company and its main business is dealing with wholesale and retail sale of Indian made Foreign Liquor. The private respondents/workmen have filed claim petitions under Section 33 (C)(2) of the Industrial Disputes Act, 1947 (in short 'the ID Act') before the III Additional Labour Court, Chennai claiming (i) difference amount between the actual pay paid to them and the minimum wages payable to them as fixed by the Government of Tamil Nadu under the Minimum Wages Act, 1948 (in short 'MW Act') (ii) overtime wages for the work allegedly done by them for more than 8 hours per day and 48 hours per week in weekly days under the provisions of Tamil Nadu



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Industrial Establishments (National and Festival Holidays) Act, 1953 and

(iii) double wages for the work allegedly done on National and Festival holidays under the provisions of Tamil Nadu Industrial Establishments (National and Festival Holidays) Act, 1953 for the periods from January, 2004 to December, 2009. The Labour Court passed the common order dated 06.02.2019 in favour of the workmen. Challenging the same, the petitioner Corporation filed the above writ petitions.

3. The learned Senior Counsel appearing for the petitioner Corporation submitted that, though the claim made by the workmen is not maintainable in law, however, the Labour Court granted relief in favour of the workmen, which is not sustainable. He also submitted that the petitioner Corporation is an establishment under the State Government, which is exempted under Section 4(1)(c) of the Tamilnadu Shops and Establishments Act, 1947 and hence, the question of paying minimum wages does not arise. If at all the workmen wants to claim minimum wages, they have to approach the authority under Section 20 of the the MW Act. Without approaching the competent authority under the MW Act, filing claim petition before the Labour Court under Section 33 C(2) of the ID Act is not sustainable. However, the Labour Court inadvertently granted relief in favour of the



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workmen, which is not sustainable. Accordingly, he prays for allowing the writ petitions.

4. On the above said contentions, heard the learned counsel appearing for the private respondents/workmen and perused the materials available on record.

5. Admittedly, the workmen filed claim petitions under Section 33(C)(2) of the ID Act. The claim petitions filed by the workmen is maintainable before the Labour Court only if there is any existing rights between the petitioner Corporation and the workmen. Based on the right, they are entitled to file claim petitions before the Labour Court. In the present case, the petitioner Corporation specifically claimed that, the petitioner Corporation is quasi government owned by the Government of Tamil Nadu, the Government of Tamil Nadu did not pay minimum wages, since they pay wages on different form over and above the MW Act. If there is a difference amount as claimed by the workmen on par with MW Act, they have to workout the remedy before the authority under Section 20 of the MW Act and not before the first respondent/Labour Court under Section 33(C)(2) of the ID Act. However, the workmen filed claim petitions under



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Section 33(C)(2) of the ID Act, which is not sustainable.

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6. Further, the petitioner Corporation is owned by the State Government, thereby, if the workmen are entitled for any claim, they have to approach the authority under the MW Act, however, the Labour Court have no jurisdiction to decide the issue in terms of Section 33(C)(2) of the Act. Hence, the claim made by the workmen is not maintainable. Therefore, the impugned common order passed by the Labour Court is liable to be interfered with.

7. Accordingly, these writ petitions are allowed and the common orders dated 06.02.2019 passed by the III Additional Labour Court, Chennai in Claim Petition Nos.2418 to 2576 of 2011 and 469 to 479, 480 to 522, 524 to 533, 535 to 538 of 2014 are set aside. However, liberty is granted to the private respondents/workmen to file appropriate petition before the authority under Section 20 of the Minimum Wages Act, 1948, within a period of four (4) weeks from the date of receipt of a copy of this order. If such petition is filed, the authority under the Minimum Wages Act is directed to decide the issue within a period of twelve (12) weeks thereafter. Further, liberty is granted to the private respondents/workmen to



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raise claim before the authority under the industrial disputes Act for claiming overtime wages and festival holiday wages under the relevant provisions and the period pending before the Labour Court as well as this Court is excluded for the purpose of limitation. No costs. Consequently, the connected miscellaneous petitions are closed.

07.08.2023

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
sp

To

The III Additional Labour Court, Chennai.



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M.DHANDAPANI, J.,

sp

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