



WP.No.27149 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.04.2023

CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU

W.P.No.27149 of 2014

The President,  
Puducherry Manila Pattali Thozhil Sangam,  
No.12, Koil Street, Anitha Nagar,  
Ouzhandaikeerapalayam,  
Puducherry - 605 004.

.... Petitioner

vs

1. The Presiding Officer,  
Industrial Tribunal, Puducherry,  
Puducherry.
2. The Managing Director,  
M/s. Alagulakshmi Industry Main Road,  
Kalmandapam, Nettapakkam,  
Puducherry.

.... Respondents

Writ Petition filed under Article 226 of the Constitution to issue a Writ of Certiorarified Mandamus to call for the records of the 1st respondent pertains to the award passed in I.D.(T)No.8 of 2008 dated 13.06.2014 and quash the same holding that the suspension of production in the 2nd respondent factory from 02.05.2008 and denial of employment to its



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workers are illegal, consequently direct the 2nd respondent to provide employment to the petitioner union workers with full backwages, continuity of service and all other attendant benefits.

For Petitioner : Mr.P.R.Thiruneelakandan

For respondents : R1-Court  
Mr. B.Ravi for R2

### ORDER

This Writ Petition has been filed challenging the order of the 1st respondent pertains to the award passed in I.D.(T)No.8 of 2008 dated 13.06.2014 and quash the same holding that the suspension of production in the 2nd respondent factory from 02.05.2008 and denial of employment to its workers are illegal, consequently direct the 2nd respondent to provide employment to the petitioner union workers with full backwages, continuity of service and all other attendant benefits.

2. The brief facts of the case of the petitioner Sangam are as follows:

i) The respondent is an Industry engaged in the manufacture of chemicals. The respondent have engaged 30 workers, but they were not



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given any appointment order and they were denied the statutory benefits such as ESI, EPF, EL, CL. Only few workers whose name recorded in the attendance register were given such benefits. The workers were not even paid bare minimum wages required under the Minimum Wages Act.

ii) In order to safeguard their interest, the workers of the respondent factory joined together and formed the petitioner Trade Union. The petitioner Union gave several complaint to the labour authorities and raised an Industrial Dispute before the Labour Officer Conciliation, Puducherry. Pending the said dispute, the respondent management terminated the service of the workers without any prior notice and prior permission of the Labour Officer where the Industrial dispute is pending and all of a sudden, suspended the production in the respondent factory from 02.05.2007. The Conciliation Officer submitted his failure report. The Government of Puducherry referred the said dispute before the Industrial Tribunal, Puducherry, and the Industrial dispute between the petitioner and the 2nd respondent was numbered as I.D.(T).No.8 of 2008. The Presiding Officer, of the Labour Court, without considering the petitioner's dispute dismissed the I.D. on the ground that the petitioner Union, being a unrecognised union



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had no locus standi to raise a dispute. Hence, the present writ petition.

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3. Heard the learned counsel for the petitioner and the learned counsel appearing for the 2nd respondent.

4. i) Learned counsel for the petitioner would submit that the respondent, to victimize the workers who formed the Trade union, while pending the Industrial dispute between the petitioner and the respondent before the Labour Officer Conciliation, without prior permission, suspended the production, whereby denied employment to the workers which clearly falls under the definition of lock out defined under section 2(l) of the ID Act. Such a lock out in contravention of section 33 of the ID Act is illegal as contemplated under section 23 and 24 of the ID Act and the workers are entitled to reinstatement with backwages with continuity of service and all other attendant benefits.

ii) Learned counsel would further submit that the respondent admitted in the counter that they had suspended the production from 02.05.2008 but the Tribunal had come to the conclusion that the factory was closed. Such a



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finding is neither based on the pleadings of the parties to the dispute nor based on the available materials on record. The parties to the dispute did not deny that the factory is in temporary suspension of production and not permanent closure, but the Tribunal went to the extent of saying that the factory is in permanent closure which shows the non-application of mind of the Presiding Officer.

iii) Learned counsel would further submit that even assuming that the respondent factory is in closure, the Tribunal shall adjudicate the dispute and decide what relief the workmen is entitled to and should compute the relief, if any, entitled in terms of money. But the Tribunal failed to do so. Hence, he would pray to allow the writ petition.

5. i) Per contra, learned counsel for the 2nd respondent would submit that the 2nd respondent is a small scale industry manufacturing a chemical called calcium carbide. As it is a very small unit engaging only 17 persons, it is exempted from certain provisions of Act pertaining to Small Scale Industries. The Industry was functioning from 1999 and worked till 2007. The production in the company came to halt due to the threat calls made by



some of the workers.

ii) Learned counsel would further submit that during the last week of April, 2007, local persons reportedly representing a political party, demanded money from the industry which was refused. Frustrated over the same, they joined with some of the respondent's labourers and attempted to inflict huge loss to the respondent. The respondent immediately informed to Deputy Labour Commissioner, Pondicherry and lodged a complaint with the Superintendent of Police, Rural, Pondicherry who immediately gave protection which prevented the industry from huge loss. Four labourers by name, S. Devaraj, R. V. Venkatesh, K. Senthil Kumar and G. Palani entered the industry and assaulted the watchman and one Arivazhagan, labourer and shouted in the industry premises by using filthy language. Thus, a chaotic situation was prevailing in the industry. This chaotic situation prevailed in the 2nd respondent unit resulted in closure of the unit. The management issued charge memo to all the four persons. Enquiry officer was appointed and after following the principles of natural justice, the enquiry officer submitted a report. Based on the same, all the four persons were dismissed from service. The Pondicherry Government made a reference to the Labour



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Department on the representation of the petitioner. The Labour Court, considered all the facts and rightly dismissed the claim petition. The Labour Court has considered that the petitioner union is neither a registered union nor a recognized union. The Labour Court held that the respondent industry had not engaged 100 workers and therefore, there is no necessity to obtain permission from the Government with regard to closure of factory.

iii) Learned counsel would further submit that the above said four employees who had been removed from service have already joined the other industry and they had been working there. The removal of four employees is in accordance with law after following the principles of natural justice. After considering all the materials facts, the Labour Court has passed a detailed order. Till the closure of the industry, all the payments due in respect of all the employees were paid. Therefore, he would pray that the award passed by the Labour Court need not be interfered with.

6. This Court considered the submissions made on either side and perused the materials available on record.



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7. From the perusal of the materials available on record, it is seen that the petitioner union is not a registered one and P.W.1 in his cross examination has also stated so. Thus, the so called President who is representing the petitioner has no locus standi to raise the dispute under the Industrial Disputes Act. Further, the list of employees is also not available in the claim petition as well as in the proof affidavit. Thus, the claim petition itself is devoid of merits. Further, since the respondent industry has not engaged 100 workers, there is no necessity to obtain permission from the Government with regard to closure of factory.

8. Further, the Tribunal has no jurisdiction to decide as to whether the reasons for closure of the industry is proper or justifiable. The threat made by the workers is proved by the representation dated 25.04.2007, sent to the Deputy Labour Commissioner, Puducherry, and also with regard to the attempt to cause destruction to the company properties, a complaint was sent to the Superintendent of Police, Rural, Pondicherry on 02.05.2007. The respondent has given representation in respect of the suspension of work to the Labour Commissioner on 2.5.2007 itself. From the evidence of P.W.1, it



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is clear that the persons who were removed from service of the respondent industry, joined duty in some other place. The Labour Court, considering all the material facts has passed a detailed order. Therefore, this Court finds no illegality or infirmity in the award passed by the Labour Court.

10. In the result, the Writ Petition stands dismissed. No costs.

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Index:Yes/No  
Speaking/Non-speaking order  
vsi

To

The Presiding Officer,  
Industrial Tribunal, Puducherry,  
Puducherry.



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**J.NISHA BANU,J.**

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