



W.P. No.11010/2017

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**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

| Reserved on | Pronounced on |
|-------------|---------------|
| 10.08.2023  | 17.08.2023    |

**CORAM**

**THE HONOURABLE MR. JUSTICE M.DHANDAPANI**

**W.P. NO. 11010 OF 2017  
AND  
W.M.P. NO. 11972 OF 2017**

M/s. Hindustan Unilever Ltd.  
Detergents Division  
NH 45A, Vadamangalam  
Puducherry, rep. By its  
Factory Manager

.. Petitioner

**- Vs -**

1. The Appellate Authority under the Payment of Wages Act,  
(Principal District Judge),  
Puducherry.
2. D.Venkadapathy (Empl. No.3)
3. S.Kannan (Empl. No.42)
4. Gopalakrishnan (Empl. No.78)
5. S.Sankar (Empl. No.87)
6. S.Selvaraj (Empl. No.115)
7. T.Jayapal (Empl. No.120)
8. A.Mariapragasam (Empl. No.124)
9. A.Ravi (Empl. No.144)
10. R.Selvaraj (Empl. No.150)
11. R.Muthumanickam (Empl. No.158)



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12. G.Kangeyan (Empl. No.162)
13. R.Venkatasen (Empl. No.169)
14. P.Murugan (Empl. No.177)
15. M.Sivakozhundun (Empl. No.180)
16. R.Couppoussamy (Empl. No.182)
17. K.Muruganandam (Empl. No.187)
18. V.Theivanayagam (Empl. No.190)
19. T.Sandanam (Empl. No.205)
20. S.Ravi (Empl. No.208)
21. Hariharan (Empl. No.216)
22. A.Kumaresan (Empl. No.220)
23. E.Muthu (Empl. No.222)
24. T.Rameche (Empl. No.224)
25. R.Sathivel (Empl. No.225)
26. D.Subramanian (Empl. No.230)
27. S.Souresh (Empl. No.231)
28. R.Marriappan (Empl. No.235)
29. Azhaganandam (Empl. No.237)
30. S.Rajasekaran (Empl. No.251)
31. M.S.Saravanan (Empl. No.254)
32. J.Sivaraj (Empl. No.257)
33. P.Vinayagam (Empl. No.263)
34. R.Elumalai (Empl. No.276)
35. R.Parangusan (Empl. No.298)
36. P.Ganesamurthy (Empl. No.305)
37. B.Kumar (Empl. No.310)
38. M.Muthukumaran (Empl. No.312)
39. S.Ramachandran (Empl. No.317)
40. V.Rangadurai (Empl. No.318)
41. D.Krishnaraj (Empl. No.327)
42. C.Sattyamourthy (Empl. No.335)
43. M.Senthil Kannan (Empl. No.350)
44. S.Sivakumar (Empl. No.352)
45. V.Murugan (Empl. No.355)
46. B.Mani (Empl. No.361)



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47. P.Ramudu (Empl.No.363)
48. K.Sendil Murugan (Empl.No.365)
49. S.Sivam (Empl.No.395)
50. N.Ulaganathan (Empl.No.397)
51. S.Balaji (Empl.No.401)
52. K.Mannivannan (Empl.No.420)
53. J.Gnanasegaran (Empl.No.433)
54. K.Naryanan (Empl.No.440)
55. L.Sivakumar (Empl.No.456)
56. R.Gnanavel (Empl.No.459)
57. D.Gurumoorthy (Empl.No.460)
58. R.Mandjiny (Empl.No.464)
59. E.Selvam (Empl.No.472)
60. C.Muniane (Empl.No.475)
61. K.Kamalkannan (Empl.No.487)
62. S.Mourougessane (Empl.No.491)
63. S.Selvaradjou (Empl.No.493)
64. V.Selvavinayagam (Empl.No.494)
65. D.Sugu (Empl.No.495)
66. P.Mayakrishnan (Empl.No.518)
67. P.Vijayan (Empl.No.530)
68. R.Karthikeyan (Empl.No.545)
69. P.Balachandar (Empl.No.549)
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76. S.Rathish Kumar (Empl.No.575)
77. G.Devanathan (Empl.No.576)
78. S.Ravichandiran (Empl.No.578)
79. K.Tamilsevam (Empl.No.580)
80. P.Ayyappan (Empl.No.581)
81. V.Sivaraj (Empl.No.587)



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82. R.Yayadhy (Empl.No.589)
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86. D.Rajesh (Empl.No.595)
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88. J.Karthik (Empl.No.599)
89. K.Murugan (Empl.No.600)
90. K.Saravanan (Empl.No.601)
91. K.Viswanthan (Empl.No.603)
92. M.Sivasakthivel (Empl.No.606)
93. N.Illamvazhuthi (Empl.No.607)
94. P.Manivannan (Empl.No.609)
95. P.Rajendiran (Empl.No.610)
96. R.Janakiraman (Empl.No.611)
97. R.Rajamani (Empl.No.613)
98. R.Vetrivelan (Empl.No.615)
99. M.Ragunath (Empl.No.616)
100. T.Gunasekaran (Empl.No.618)
101. P.Murugaiyan (Empl.No.623)
102. G.Ramesh (Empl.No.624)
103. J.Badmanaban (Empl.No.625)
104. M.Mohan (Empl.No.626)
105. S.Muthukumarasamy (Empl.No.630)
106. P.Kumaravel (Empl.No.631)
107. S.Senthamizhan (Empl.No.632)
108. J.Sivakumar (Empl.No.151)
109. M.Gunalan (Empl.No.195)
110. A.Natarajan (Empl.No.202)
111. M.Jaimuruga (Empl.No.233)
112. S.Mourougane (Empl.No.236)
113. P.Comarassamy (Empl.No.240)
114. S.Thamaraikannan (Empl.No.259)
115. D.Krishnamurthi (Empl.No.277)
116. P.Sunil Kumar (Empl.No.281)



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- 117.S.Thirumavalavan (Empl.No.283)
- 118.A.Gunasekaran (Empl.No.306)
- 119.P.Murugan (Empl.No.346)
- 120.K.Senthilnathan (Empl.No.351)
- 121.S.Vehagiri (Empl.No.412)
- 122.M.Murugan (Empl.No.422)
- 123.R.Srinivasan (Empl.No.429)
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- 128.V.Saravanan (Empl.No.505)
- 129.R.Arul (Empl.No.509)
- 130.A.Chanbatcha (Empl.No.511)
- 131.K.Makesh (Empl.No.517)
- 132.S.Sureshkumar (Empl.No.557)
- 133.M.Sendilcoumar (Empl.No.562)
- 134.T.Sasikumar (Empl.No.563)
- 135.A.Nishar Ahamed (Empl.No.585)
- 136.P.Rajendiran (Empl.No.586)
- 137.R.Suresh (Empl.No.614)
- 138.N.Manimaran (Empl.No.620)
- 139.R.Ayyappan (Empl.No.627)
- 140.V.Sakthivel (Empl.No.333)

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying  
this Court to issue a writ of certiorari calling for the records connected with the  
judgment and decree dated 18.04.2016 in P.W.A. No.5 of 2014 passed by the



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Appellate Authority under the Payment of Wages Act (Principal District Judge),  
Puducherry, and quash the same.

For Petitioner : Mr. Sanjay Mohan, for  
M/s. Ramausbramanian Associates

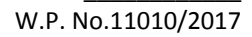
For Respondents : No Appearance

**ORDER**

Assailing the order in and by which the 1<sup>st</sup> respondent had directed  
Payment of Wages to the respondents/workmen herein towards the notional  
absence for two days, the present writ petition has been filed by the petitioner.

2. For convenience, the petitioner and respondents 2 to 140 will be  
referred to as management and workmen.

3. It is the case of the Management that it is in the business of  
manufacture of Fast Moving Consumer Goods and has a national presence. On  
10.05.2007, the Management had entered into a settlement with the Union u/s  
12 (3), which provided for comprehensive group incentive scheme. It is the



4. It is the further case of the Management that with a view to pressurize management to accede to the charter of demands raised by the Unions, the men resorted to illegal acts, including slowing down of the production. The men also filed a claim petition seeking payment of production incentive, reduction to penal wage deduction and wage deduction for two days for notional loss in response to the workmen not wearing uniforms.



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5. It is the case of the Management that the present writ petition only relates to the order passed by the 1<sup>st</sup> respondent under the Payment of Wages Act against the Management relating to the wage deduction for two days of notional absence of the workers for not wearing uniforms as the other issues have stood settled.

6. It is the further averment of the Management that the claim made by the Union in the claim petition relating to the non-wearing of uniforms by the workmen is due to non-supply of uniforms in time due to which the workmen were forced to wear colour dress on the said two days. It is the further case of the Management that the negotiation between the Management and the Union with regard to the colour of the uniform not stood settled for a long time, resulted in the delay and though the Management decided to continue the colour of the uniform as was issued in the earlier year and the tailor of the Management though visited the factory for taking measurements of the workmen, due to the act of the workmen in not giving the requisite measurements inspite of repeated instructions, the Management was not able to provide the uniform on time.



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Therefore, the delay in the providing of uniform cannot be attributed to the Management and it is due to the fault of the workmen.

7. It is the further case of the Management that the workmen did not wear the uniform on 20.02.2012 and 21.02.2012, as a matter of protest inspite of warning by the Management that they will not be permitted to enter the factory premises without proper uniform, which is a requisite condition under clauses 36 (g) and 39 (79) of the certified standing orders. Though the workmen were put on notice that failure to adhere to the dress code will entail in treating their presence as absence as per the Certified Standing Orders, the workmen came to the factory without uniform and, therefore, their presence were treated as absence and they were not paid the wages, which resulted in the filing of P.W.A. No.6 of 2012 before the 1<sup>st</sup> respondent. The 1<sup>st</sup> respondent, after hearing both the parties and perusing the exhibits, Exs.R-1 to R-27 filed by the Management, vide the impugned order, directed payment of Rs.920/- to each of the workmen, in all 139, within a period of one month, which is put in issue before this Court in the present petition.



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8. Learned counsel appearing for the petitioner/Management submitted that the 1<sup>st</sup> respondent has no jurisdiction under the Payment of Wages Act for directing payment of wages, when there was no dispute referred to it u/s 10 to it. The 1<sup>st</sup> respondent can at best act on a reference of an industrial dispute for which it has been formed u/s 10 of the Industrial Disputes Act and without any reference, the act of the 1<sup>st</sup> respondent going into the issue and ordering payment of wages is wholly illegal as the Management had invoked the principle of no-work – no-pay while not paying the wages to the workmen.

9. It is the further submission of the learned counsel that the order of the 1<sup>st</sup> respondent not only suffers lack of jurisdiction, but it is also against the standing orders of the Management, as the Standing Orders of the Management provided for the workmen to report in uniform and any infraction, the employer was justified to act in accordance with the standing orders, including keeping the workmen away from work. When there is no dispute about the fact that the workmen did not come in the uniform, the Management was well within its rights to prevent the workmen from attending duty, including marking his presence as absence, as it is well with Clause 36 (g) and 39 (79) of the Standing Orders.



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10. Drawing the attention of this Court to the decision of the Apex Court in ***Modi Industries Ltd. – Vs – State of UP & Ors. (1994 (1) SCC 159)***, it is submitted by the learned counsel that the duty of the 1<sup>st</sup> respondent is only to assist the workmen to recover their wages, which are admittedly due to them, which were withheld for no fault on their behalf and the 1<sup>st</sup> respondent cannot act as an adjudicator of the entitlement of the workmen with regard to wages, which are disputed. It the submission of the learned counsel that the entitlement of the workmen is disputed by the Management as they have failed to adhere to clause 36 (g) and 39 (79) of the Standing Orders and, therefore, it is not within the purview of the 1<sup>st</sup> respondent to order payment of wages for the two days, which were marked as absent. In spite of specific warning the workmen having failed to adhere to the clauses in the standing orders, the Management was well within its rights to deduct the wages and, therefore, the order of the 1<sup>st</sup> respondent directing payment of wages for the two days is wholly misconceived, irrational, arbitrary and unsustainable.



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11. Though notice has been issued on respondents 2 to 140, however, there is no representation on their behalf. However, as the case relates to the year 2017 and more than six years have passed since the institution of the case, this Court is inclined to proceed with the petition on the materials available and decide the same on merits.

12. The short issue that surfaces in the present petition relates to the action of the Management in not paying wages for two days, when the workmen had attended their duty without their uniform, which, according to the Management, is an infraction of Clause 36 (g) and 39 (79) of the Standing Orders.

13. For appreciating the same, clause 36 (g) of the Standing Orders, which is material, is extracted hereunder :-

*“Uniforms : All workmen who are provided with uniforms will be required to wear the same while on duty. Every workman will be required to maintain his uniform in a clean and proper condition. Any workman reporting for duty without wearing the uniform will not be allowed to work and will be treated as absent without pay.”*



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14. The fact, which is not in dispute is that the Management provides uniform on yearly basis to all its workmen and it is the said uniform, which is to be worn by the workmen, while attending to the duty within the premises of the petitioner. In fact, the Management, between February and June of the earlier year had provided uniform for the preceding year to the workmen.

15. The Management places its case on the averment that the talks with the Union for providing uniform did not fructify as a consensus with regard to the colour could not be reached, which resulted in the delay in the issuance of uniform. However, clause 36 (g) of the standing order is to be mandatorily followed and, therefore, the workmen, who would be in possession of the earlier uniform ought to have worn the same and attended duty till such time uniform is issued by the Management.

16. The Management provides the workmen with uniform on yearly basis and it is alleged by the Management that the uniforms were issued to the workmen in the preceding year between February and June, therefore, the



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workmen could very well wear them while attending work. The earlier period of time for which the uniform was issued by the Management has not been spoken. However, it is alleged that the last set of uniforms were issued between February and June of the preceding year.

17. Be that as it may. When a settlement is arrived at between the Unions and the Management, which provides for issuance of uniform, it is the duty of the Management to adhere to the commitment and issue the workers with the uniform. When the Management wants compliance of the Standing Orders in letter and spirit, it is for the Management to see to it that the workers could comply with the same. In the case on hand, it is not the case of the Management that the workers, out of the blue, had abstained from wearing the uniform. In fact, it is the case of the Management that the workers were warned that attendance without uniform will result in strict action, which clearly shows that the workmen had put the Management on notice about their possible act of showing their dissatisfaction by not wearing uniform for two days.



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18. It is not as if the workmen had presented themselves without uniform without putting the Management on notice. When it was within the knowledge of the Management that the workmen intend to attend office without their uniform as a token of their protest against the Management in not arriving at the settlement as well as issuing the uniform, prudence warrant that the Management ought to have taken up the issue with the Union and settled the same, rather than allowing it to brew and turn sour.

19. The Management contends that the workmen ought to have attended the duty by wearing the old uniforms, which were given to them. However, it is to be pointed out that when the Management is bound to comply with their duty by issuing the uniforms before the scheduled time, which the Management has miserably failed, the Management cannot throw the ball at the workmen and claim that they ought to have come in the older uniform to comply with clause 36 (g) of the Standing Orders. When the Management wants compliance of the Standing Orders by the workmen, the Management ought to comply their part of their obligation by issuing the uniform on time so that the workmen would not be



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put to difficulty for one reason or the other with regard to the earlier set of uniforms provided to them.

20. There is no quarrel that clause 36 (g) provides for treating the workmen to be absent if they come for work clad in clothes other than the uniform. However, the Management could invoke the said clause only if they comply with their part of their obligation by providing the uniform on time. The Management cannot throw the book at the workmen and ask them to comply certain clauses without their complying with their obligation.

21. The decision in *Modi Industries case (supra)* relied on by the learned counsel for the petitioner would not advance the case of the Management any further. In fact, it leans more in favour of the workmen and for better appreciation, the relevant portion is quoted hereunder :-

*“8. .... It is only if he is satisfied on both counts that he can issue the certificate in question. Under the Act, the Labour Commissioner acts to assist the workmen to recover their wages which are admittedly due to them but are withheld for no fault on their behalf. He does not act as an adjudicator if the entitlement of the workmen to the wages is disputed otherwise then on*



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*frivolous or prima facie untenable grounds. When the liability to pay the wages, as in the present case, is under dispute which function of the Labour Commissioner to adjudicate the same. In such case, he has to refer the parties to the appropriate forum.”*

22. From the above, it is evident that insofar as entitlement, which is not in dispute, the same could be entertained and adjudicated upon by the 1<sup>st</sup> respondent so as to enable the workmen to recover their wages. However, when the entitlement of the workmen to the wages is disputed on frivolous or prima facie untenable grounds, then the 1<sup>st</sup> respondent derives jurisdiction to entertain the dispute.

23. In the case on hand, there could be no two opinions that there is a dispute, which precludes the 1<sup>st</sup> respondent from adjudicating the issue. The workmen have not come in their uniform, but for reasons that they were not provided with the same by the Management. There is no quarrel that Clause 36 (g) of the standing orders comes into play, but only in situations where the Management has fulfilled their obligations. When the Management has not fulfilled their obligations by providing the uniform to the workmen, it does not lie



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in the mouth of the Management to claim that the workmen have violated clause 36 (g) of the Standing Orders, which requires the enforcement of the conditions laid down in the said clause. A frivolous issue is sought to be projected as a dispute thereby trying to rob the jurisdiction vested with the 1<sup>st</sup> respondent.

24. The stand of the Management that the workmen should not expect the uniform at a particular period of time every year and non-issuance of the uniform should be protested in the said manner, is not appreciable for the simple reason that when the Management has put in place a certain condition in the Standing Orders requiring the workmen to come in their uniforms to work, it is the duty of the Management to see to it that uniforms are provided to the workmen every year at the designated time so as to enable the workmen to comply with clause 36 (g). The Management, at their whims and fancies, cannot provide uniform to the workmen, but yet expect the workmen to attend duty by wearing the uniforms. May be, some of the workmen would be having their older uniforms, but it cannot be put up strictly that each and every workmen would be in possession of their older uniforms so as to enable them to attend office by wearing the said uniform. When the Management has put in a condition that



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uniform is mandatory and that the uniform would be provided by the Management, it is the duty of the Management to make provision of the uniform to the workmen at designated points of time. Any non-issuance of the uniform by the Management at the particular point of time cannot be put against the workmen to invoke clause 36 (g).

25. Further, as already aforesaid, the workmen have put the Management on notice about their intent to abstain from wearing uniform on the said two days. Except for issuing a warning, the action, which the management had taken to neutralise the situation has not been spelt out. Therefore, when the Management is equally at fault, moreso, when the Management was the reason for the said infraction committed by the workmen, the workmen cannot be allowed to suffer.

26. The decision in *Modi Industries case (supra)* clearly stipulates that only when there is a dispute the Labour Commissioner shall not interfere, except for the admitted entitlement of the workmen. As aforesaid, the act of the Management in not providing the uniform to the workmen had resulted in the



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aforesaid act, which cannot be termed to be a dispute, which necessitates the 1<sup>st</sup> respondent to refrain himself from adjudicating the dispute. Therefore, appreciating all the aforesaid facts, the 1<sup>st</sup> respondent has rightly passed the order.

27. Further, it is borne out by record that the amount, which is ordered to be paid to each workmen is to the tune of about Rs.920/-, totalling to a sum of about Rs.1.35 Lakhs for all the 139 workmen. The importance of the workmen in an establishment should be realised by each and every employer as without the workmen, the entire establishment would come to a grinding halt. The workmen and the establishment are two sides of a coin and one cannot survive without the other. Both the entities should work in tandem so that the establishment runs smoothly. The petitioner Management, being a company having international presence, its handling of its workmen should be a lesson for other companies, which would alone give the industrial establishments the necessary impetus to move forward in the path of conducive employer-employee relations. A matter, which could have been settled on the flip of a coin, has been unnecessarily dragged on for more than a decade. Further, it is to be pointed out that the



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amount involved in the payment is only a paltry sum of Rs.1.35 Lakhs, for which the parties have been fighting for about a decade. This Court wishes to stress that it is not worth a pinch of salt to either of the parties to have continued this litigation thus far, more specifically the petitioner herein, as the amount of time expended by way of court hours is worth more than the amount which would have been shelled out by the petitioner towards the payment to the workmen. This Court, in the interest of justice delivery system and also with a view to emphasise the fact that litigants seeking justice are waiting at the doorsteps of the courts in umpteen numbers, hopes and trust that litigations of this nature, which could be amicably settled between the parties, are avoided so that the crucial and valuable court hours could be utilised for rendering speedy justice to the needy.

28. With the above faint attempt to drive the point across to the litigating parties and with the fond hope that precious judicial time shall not be wasted this writ petition is dismissed confirming the order passed by the 1<sup>st</sup> respondent. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.



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The Appellate Authority under the Payment of Wages Act,  
(Principal District Judge),  
Puducherry.



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**M.DHANDAPANI, J.**

**GLN**

**PRE-DELIVERY ORDER IN  
W.P. NO. 11010 OF 2017**

**Pronounced on**



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