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W.P.Nos.26324 of 2017 and 34117 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.26324 of 2017 and 34117 of 2022

And

W.M.P.Nos.27982 of 2017 and 33590 of 2022

1.The Management of
Sundram Fasteners Ltd.,
Registered Office,
98 – A, VII Floor,
Dr.Radhakrishnan Salai,
Chennai 600 004
Rep. by Chief Financial Officer

2.The Management of
Sundram Fasteners Ltd.,
Metal Form Division
Haritha, Hosur – 635 109
Rep. by Chief Financial Officer ... Petitioners in W.P.26324/2017

The Management of
Sundram Fasteners Ltd.,
Metal Form Division
Haritha, Hosur – 635 109
Rep. by its Authorised Signatory ... Petitioner in W.P.34117/2022

Vs.

1.The Presiding Officer,
Labour Court,
Salem. ... Respondent in W.P.26324/2017

2.S.Boopathy ... Respondent in both the W.Ps.



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Prayer in W.P.No.26324 of 2017:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the first respondent in C.P.No.16 of 2014 and C.P.No.17 of 2014, quash its common order dated 11.01.2015.

Prayer in W.P.No.34117 of 2022:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the Labour Court, Hosur in C.P.No.54 of 2019, quash its order dated 28.07.2022.

For Petitioner : Mr.Anand Gopalan
for M/s.T.S.Gopalan and Co.

For Respondents : R1 – Labour Court
Mr.R.Rajaram for R2
in W.P.No.26324/2017

Mr.R.Rajaram
in W.P.No.34117/2022

COMMON ORDER

Since the issue involved in these writ petitions are one and the same, they are heard together and disposed of by way of a common order.



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2.The case of the petitioners is that the second respondent in W.P.No.26324 of 2017 / respondent in W.P.No.34117 of 2022 [hereinafter referred to as 'Workman'] was employed in the petitioner company as an Apprentice on 18.06.1990 and was working in the production area. In the year 1994, he was transferred from the production area to packing department which is a service area. When he completed seven years of service, he could not be considered for Multi Skill Allowance and he was not working in the production area continuously and also as his Department Head did not recommend him on the basis of his performance.

3.The further case of the petitioners is that the Workman made representation seeking Multi Skill Allowance to the petitioner and the petitioner also informed him as to why he is not entitled for the said allowance, however, the Workman filed C.P.Nos.16 and 17 of 2014 seeking Multi Skill Allowance for the period from July, 1997 to December, 2001 and January, 2002 to June, 2004 before the Labour Court, Salem and the Labour Court vide common order dated 11.01.2015 directed the petitioner to pay a sum of Rs.8,100/- along with 6% interest and Rs.11,052/- along with 6% interest to the



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Workman. Thereafter, the Workman filed C.P.No.54 of 2019 seeking Multi Skill Allowance for the period from July, 2004 to June, 2019 before the Labour Court, Hosur and the Labour Court vide order dated 28.07.2022 directed the petitioner to pay a sum of Rs.87,300/- along with 9% interest. Challenging the same, the petitioners have filed these writ petitions.

4.The learned counsel appearing for the petitioners submitted that during February, 1989, a Proposal For Multicraft Progression Scheme was framed, by which, when employees possessing ITI Certificate are transferred from one skill area to another skill area, Multi Skill Allowance will be granted on completion of first seven years and thereafter every spell of five years. As per Clause 3.1 of the said Scheme, all those employees who have passed ITI certificate examination, irrespective of the trades, as on the date of introduction of the Scheme and all those employees who have gone through the inhouse ITI training course and are yet to be pass the examination are eligible to get the benefit.

5.The learned counsel appearing for the petitioners further submitted that in the present case, the Workman was employed in



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petitioner company as an Apprentice on 18.06.1990 and was working in the production area. In the year 1994, he was transferred from the production area to packing department, however, the Labour Court passed order in his favour. Further, in the entire claim petition, the Workman has not stated that he is an ITI holder. In the absence of any evidence, the Labour Court mechanically passed the award, which is not sustainable one.

6.Per contra, the learned counsel appearing for the Workman submitted that though the Workman did not aver with regard to his qualification in his claim petition, it is un-disputed fact that the Workman possess ITI and possession of ITI itself is sufficient for awarding Multi Skill Allowance and hence, the impugned orders warrants no interference.

7.Heard the arguments advanced on either side and perused the materials available on record.

8.The facts in the present case is not in dispute. Admittedly,



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the Workman filed claim petitions under Section 33-C(2) of the Industrial

Disputes Act based on the Scheme introduced by the petitioner dated 26.02.1989.

9.Hence, it is appropriate to extract hereunder Clause 3.1 and 3.2 of the Proposal For Multicraft Progression Scheme dated 26.02.1989:

'3.0 Eligibility Criteria:

3.1 Employees 'covered' under this scheme are:

3.1.1 All those employees who have passed ITI certificate examination, irrespective of the trades, as on the date of introduction of this Scheme; and

3.1.2 All those employees who have gone through the "inhouse" ITI training course, and are yet to be pass the examination.

3.2 Employees 'not covered' under this



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scheme are:

3.2.1 Employees engaged in the following unskilled areas in shop floor:

Phosphating/Annealing/Furnace operation/ Blending/ Barrelling/ Oiling/ Roll marking/ Linishing

3.2.2 Canteen vendor/ Helpers/ Sweeper & Toilet Attendants/ Gardener/ Packer/Security staff/ Drivers/ Asst.Maistry

3.2.3 Any other job that may be identified later'

10.Perusal of the above makes it clear that all those employees who have passed ITI certificate examination, irrespective of the trades, as on the date of introduction of this Scheme and all those employees who have gone through the inhouse ITI training course and are yet to be pass the examination are eligible for Multi Skill Allowance. This Court perused the claim petition. In the claim petition, the Workman has nowhere averred that he possess ITI qualification. However, the Labour Court, without considering the basic thing has passed award in favour of the Workman, which is not



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sustainable one.

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11.On the sole ground, the impugned orders i.e., common order dated 11.01.2015 made in C.P.No.16 of 2014 and C.P.No.17 of 2014 by the Labour Court, Salem and order dated 28.07.2022 made in C.P.No.54 of 2019 by the Labour Court, Hosur, respectively, are set aside and the matter is remitted back to the respective Labour Courts to consider the matter afresh. The respective Labour Courts are directed to provide opportunity to both parties to let in evidence and thereafter decide the matter and pass appropriate orders.

12.These writ petitions are allowed on the above terms. No costs. Consequently, the connected miscellaneous petitions are closed.

21.09.2023

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

To

1.The Presiding Officer,
Labour Court,
Salem.

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2.The Presiding Officer,
Labour Court,
Hosur.

M.DHANDAPANI,J.
pri

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