



W.P. No. 27023 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2023

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

**W.P. No. 27023 of 2017
and W.M.P. No.28835 of 2017**

The Management,
Thiruvalluvar Textile (P) Ltd.,
C/o. The Narasimma Mills (P) Ltd.,
Coimbatore – 641 031.

... Petitioner

-VS-

1. The Presiding Officer,
Labour Court,
Coimbatore.
2. The Management,
The Narasimma Mills (P) Ltd.,
Coimbatore.
3. S.Ramesh
4. A.Balakrishnan
5. A.Selvaraj
6. A.Saravanakumar
7. K.Chandraseharan,
8. D.Venkidusamy,
9. R.Thangavel
10. T.Ramesh
11. V.Radhakrishnan,



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12. R.Thangavel
13. P.Vellingiri
14. M.Shanmugasundaram
15. V.Anbalagan
16. S.Selvaraj
17. S.Kanagaraj
18. M.Elamurugan
19. V.Thirumalaisamy,
20. S.Moorthy,
21. D.Chinnaraj,
22. T.Gunaseharan,
23. T.Kalyanasamy,
24. G.Balan,
25. A.Arumugam,
26. K.Duraisamy,
27. R.Natarajan,
28. I.V.Santhanam,
29. R.Rajan,
30. M.Kannan,
31. D.Velumani,
32. A.Krishnan,
33. G.Ranganathan,
34. N.Chinnakannan,
35. N.Ravichandran,
36. D.Sathiyamoorthy,
37. G.Loganathan,



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38. S.Krishnamoorthy,
39. G.Kulanthaivelu,
40. P.Jeyachandran,
41. R.Krishnamoorthy,
42. G.Sathasivam,
43. D.Ranagaraj
44. P.Devaraj
45. R.Mohankumar
46. N.Rangaraj
47. S.Ramesh
48. V.Senthilkumar
49. G.K.Kannan
50. S.Sivakumar
51. R.Jeyapal
52. M.Sasikumar
53. N.R.Yuvaraj
54. M.Dhandapani
55. S.Palanisamy
56. A.Yuvaraj
57. V.Jeyanchandran
58. R.Manoharan
59. N.Kaliappan
60. C.Palanisamy
61. R.Vidyasahar
62. A.Jeyakumar
63. A.Kannan



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64. G.Rameshkumar
65. R.Dhanapal
66. V.Rajagopal
67. S.Kanagaraj
68. N.Selvaraj
69. D.Ravindran
70. N.Selvaraj
71. N.Ranganathan
72. R.Duraisamy
73. N.Ranganathan
74. K.Devaraj
75. R.Selvaraj
- 76 N.Ramasamy
77. G.Krishnasamy
78. K.Sasikumar
79. S.Subramaniam
80. R.Varatharaj
81. N.Nagarajan
82. K.Moorthy
83. V.Srinivasan
84. B.Palanisamy
85. R.Arumugam
86. G.Anandakumar
87. D.Gurusamy
88. R.Balasubramaniyam
89. S.Gopal



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90. R.Kanagaraj

91. G.Sambathkumar

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the records and to quash the award dated 23.02.2017 passed in I.D. Nos.162 to 226/ 2009, I.D. Nos.269 to 274 of 2009, 276/ 2009, 277/2009, 461/2009, 463 to 467/ 2009 and 469/ 2009 to 478 of 2009 by the Labour Court, Coimbatore, the first respondent.

For Petitioners : M/s. M.R.Raghavan

For R3 to R9, R11 to R50,
R52 to R57, R59, R61, R63
to R82, R84 to R89 & R91 : Mr.S.Saravanan

For R2, R10, R58 & R62 : No appearance

For R51, R83 : Not ready in notice

ORDER

The Writ on hand has been instituted against the award dated 23.02.2017 passed by the Labour Court, Coimbatore.

2. The case of the petitioner is that the petitioner / Management had purchased shares of the second respondent / Mill and running the same with its own employees. The employees of the second respondent / Mill had raised an Industrial Dispute before the first respondent / Labour Court seeking reinstatement and other benefits. The first respondent / Labour Court had



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passed an award dated 23.02.2017, directing the petitioner to pay a sum of Rs.40,000/- as compensation to each of the employee in lieu of reinstatement with continuity of service and other attendant benefits and subsequently to pay a sum of Rs.1,00,000/- as compensation to Mr. D.Ravindran in I.D.No.270 of 2009 in lieu of reinstatement with continuity of service and other attendant benefits. Challenging the same, this Writ Petition has been filed.

3. The learned counsel for the petitioner Management submitted that the respective workmen have resigned their job on 17.03.2006 and received the benefit under the 18(1) settlement dated 30.03.2006. Thereafter, the petitioner Management took over the second respondent mill from 01.09.2006 and running a unit with new employees by renovating the entire unit. The workmen raised an industrial dispute for re-instatement, back wages and oral termination, which is unsustainable. As on 01.09.2006, there is no employee-employer relationship between the petitioner and the private respondents and already the private respondents have received their benefits in terms of settlement under Section 18(1) of the ID Act with the second respondent. Again the private respondents raised a dispute under Section 2(a)(2) of the ID Act which is unsustainable. The learned counsel for the petitioner submitted that similarly situated person filed a computation petition for claiming wages from the



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petitioner in CP.No.11/2007 and the same was dismissed by the Labour Court vide order dated 21.06.2012. Challenging the said order, the co-worker filed a writ petition before this Court in WP.No.4850/2013 before this Court. This Court vide its order dated 18.01.2019, dismissed the same and confirmed the dismissal order of the computation petition on the ground that there was 18(1) settlement between the parties and the same was binding on them. In view of the settled decision, it is not open to the workmen to raise a dispute before the Labour Court and hence, the impugned order is liable to be set aside.

4. The learned counsel for the respondents 3 to 84 submitted that admittedly, the respective workmen entered into service with the second respondent management and they rendered several years of service. On 01.09.2006, the second respondent orally terminated the respondents from service without initiating any disciplinary proceedings and the said Act of the second respondent is unfair labour practice and contrary to the labour law. Thereby, the respective workmen raised an industrial dispute before the Labour Court. The Court has rightly awarded compensation to the workmen, which cannot be interfere with.

5. The learned counsel further submitted that it is true that the petitioner



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entered into 18(1) settlement with the second respondent on 30.03.2006.

However, as per the said settlement, the second respondent have not disbursed any amount to the employees. For non-disbursement of the amount, the second respondent is not entitled to enforce 18(1) settlement and the same was elaborately considered by the Labour Court. The Labour Court arrived at a conclusion that no benefits was disbursed to the workmen and directed the petitioner to pay compensation to the workmen, which cannot be interfered with.

6. Heard the learned counsel for the petitioner and the learned counsel for the respondents and perused the materials available on record.

7. Admittedly, the private respondents/workmen have entered into service with the second respondent in different cadre and they worked upto 2003. Thereafter, the second respondent was not able to run the company due to recession faced by the textile industry. Thereby, the respective workmen and the second respondent Management have entered into 18(1) settlement, the workmen received the entire compensation amount by way of demand draft and the same was marked as Ex.M5 before the Labour Court, a copy of the resignation letter was marked as Ex.M4 (88 series) dated 17.03.2006 and 18(1)



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settlement was also marked as Ex.M7 (85 series) dated 31.03.2006. Further, a dismissal order of the computation petition dated 21.06.2012 filed by one of the Workman was marked as Ex.M8 and the said order was confirmed by this Court in W.P.No.4850/2013 dated 21.05.2019. In the impugned order, the Labour Court has arrived at a conclusion that the petitioner herein was directed to pay a sum of Rs.40,000/- as compensation to each of the private respondents. However, this Court is unable to understand on what basis the Labour Court has arrived at such conclusion. The Labour Court has arrived at only on the basis of management witnesses and 18(1) settlement. The said settlement was not in terms of Section 18(1) of the ID Act and the same is perverse.

In this background, it is relevant to note that the decision rendered by the Hon'ble Apex Court reported in *AIR 1963 SCC 1489* in the case of *Anakapalle Cooperative Agricultural and Industrial Society Ltd., Vs. Workmen and others* and the relevant paragraph is extracted hereunder:

"20. Mr. Chari, however, urges that the present case ought to be governed by the provisions of s. 25-H of the Act. This argument proceeds on the assumption that the case of termination of service resulting from the transfer of ownership or management of an undertaking to which s. 25-FF applies is a case of retrenchment properly so called. In our opinion, this assumption is clearly not well-



founded. The first difficulty in accepting the correctness of this assumption is the decision of this Court in Hariprasad's case MANU/SC/0069/1956 : [1957]1SCR121 , to which we have already referred. The decision of this Court in that case clearly shows that the termination of services resulting from transfer or closure is not retrenchment, and it is on the basis of the correctness of this decision that s. 25-FF as amended has been enacted. Besides, on a construction of s. 25-FF itself, it is difficult to equate the termination of services with which it deals, with retrenchment covered by s. 25-F. As we have already indicated, s.25-F is referred to in s. 25-FF to enable the assessment of compensation payable to the employees covered by s. 25-FF. The clause "as if" clearly shows the distinction between retrenchment under s. 2(oo) and termination of service under s. 25-FF. In this connection, we may refer to the decision of this Court in M/s. Hatisingh Manufacturing Co. Ltd. v. Union of India MANU/SC/0303/1960 : (1960)1ILLJISC . In that case, this Court had to consider the effect of the words "as if" occurring in s. 25-FFF, and it has been held that by the use of the words "as if the workmen had been retrenched" under the said section, the Legislature has not sought to place closure of an undertaking on the same footing as retrenchment under s. 25-F. Therefore, the plea that s. 25-H applies to the present case cannot be accepted."

8. A perusal of the said decision makes it clear that once the employees have received their retrenchment compensation from the management, they are



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not entitled for re-employment. In a similar issue, the Hon'ble Apex Court also held that the workmen who received compensation are entitled to claim immediate re-employment in the concern at the hands of the transferee. The contention that in cases of this kind, the workmen must get retrenchment compensation and re-employment almost simultaneously is inconsistent with the very basis of the concept of retrenchment compensation.

9. In the present case, already the workmen have received their compensation under 18(1) settlement from the second respondent. Thereafter, they are not entitled to raise an industrial dispute under Section 2(a)(2) of the ID Act for reinstatement. The above judgment will squarely apply to the facts of the present case. In view of the settled position of law, the order passed by the first respondent is hereby quashed.

10. Accordingly, the writ petition is allowed. Consequently, the connected Miscellaneous Petition is closed. No costs.

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Rli

Index: Yes/No

NCS : Yes/No



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M.DHANDAPANI, J.

Rli

To

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Labour Court,
Coimbatore.
2. The Management,
The Narasimma Mills (P) Ltd.,
Coimbatore.

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