



W.P.(MD).Nos.20384, 20385 and 20386 of 2017

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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**DATED : 22.06.2023**

**CORAM**

**THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

**W.P.(MD).Nos.20384, 20385 and 20386 of 2017  
and  
W.M.P.(MD).Nos.16646, 16647, 16648,  
16649, 16650, 16651 and 16652 of 2017**

W.P.(MD).No.20384 of 2017:

Thamizhaga Panchalai,  
Thozhilalar Sangam,  
Reg.No.698/CBE, 23.11.81,  
Represented by its General Secretary,  
N.Chithambarasami

... Petitioner

**Vs.**

1.The Presiding Officer,  
Labour Court,  
Tiruchirappalli.  
  
2.The Management of Vishvabharathi  
Textiles Private Limited,  
Unit No.I and II, Vadamadurai,  
Dindigul District – 624 802.

... Respondents



W.P.(MD).Nos.20384, 20385 and 20386 of 2017

**Prayer :** Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for all records relating to the award of the Honourable Labour Court, Tiruchirappalli in I.D.No.13 of 2006 dated 05.10.2016 upholding the transfer order dated 02.05.2003 and quash the same and consequently direct the second respondent to re-employ the workmen referred in G.O.Ms.No.1316 Labour and Employment (P1) Department dated 30.12.2005 with all back wages, emoluments and benefits from 02.05.2003 insofar as they or their legal representatives are concerned.

W.P.(MD).No.20385 of 2017:

Thamizhaga Panchalai,  
Thozhilalar Sangam,  
Reg.No.698/CBE, 23.11.81,  
Represented by its General Secretary,  
N.Chithambarasami

... Petitioner

**Vs.**

- 1.The Presiding Officer,  
Labour Court,  
Tiruchirappalli.
- 2.The Management of Vishvabharathi  
Textiles Private Limited,  
Unit No.I and II, Vadamadurai,  
Dindigul District – 624 802.

... Respondents



W.P.(MD).Nos.20384, 20385 and 20386 of 2017

**Prayer** : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for all records relating to the award of the Honourable Labour Court, Tiruchirappalli in I.D.No.14 of 2006 dated 05.10.2016 upholding the transfer order dated 12.05.2003 and quash the same and consequently direct the second respondent to re-employ the workmen referred in G.O.Ms.No.1263 Labour and Employment (P1) Department dated 02.12.2005 with all back wages, emoluments and benefits from 12.05.2003 insofar as they or their legal representatives are concerned.

W.P.(MD).No.20386 of 2017:

Thamizhaga Panchalai,  
Thozhilalar Sangam,  
Reg.No.698/CBE, 23.11.81,  
Represented by its General Secretary,  
N.Chithambarasami

... Petitioner

**Vs.**

- 1.The Presiding Officer,  
Labour Court,  
Tiruchirappalli.
- 2.The Management of Vishvabharathi  
Textiles Private Limited,  
Unit No.I and II, Vadamadurai,  
Dindigul District – 624 802.

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**Prayer** : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for all records relating to the award of the Honourable Labour Court, Tiruchirappalli



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in I.D.No.15 of 2006 dated 05.10.2016 dismissing the claim of the workmen and quash the same and consequently direct the second respondent to re-employ the workmen referred in G.O.Ms.No.79 Labour and Employment (P1) Department dated 27.01.2006 with all back wages, emoluments and benefits from 18.05.2003 insofar as they or their legal representatives are concerned.

**(In all Writ Petitions):**

For Petitioner : Mr.K.Gokul  
For R-1 : Labour Court  
For R-2 : Mr.C.Karthikeyan

### **COMMON ORDER**

The issue in all these Writ Petitions are one and the same. Hence, a common order is passed.

2. The Writ Petitions are filed challenging the labour Court award and consequently direct the second respondent to reemploy the workmen referred in the respective Government Order with all backwages, emoluments and benefits.

3. These Writ Petitions have been filed by the Thamizhaga Panchalai Thozhilalar Sangam, which is a registered body. The members of the Sangam



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were employed in the second respondent Textile Mill which started in the year 1984 and the mill was engaged in the manufacture of cotton and synthetic yarn.

The contention of the petitioners is that there was a dispute between the second respondent and the workmen regarding wages and other benefits and the issue is pending before the Special Industrial Tribunal, Chennai in I.D.No.1 of 2002 and 3 of 2003. This necessitated several trade unions objecting to the Management policy of reducing wages. The Sangam intimated their objections to the Management through their letter dated 17.05.2003 and 27.05.2003. Subsequently the Mill illegally laid off the workmen without obtaining mandatory permission under the Industrial Dispute Act, 1947 and they were paid only 50% wages till May 2003. In the meanwhile, the Mill has issued transfer orders to the various workmen. Aggrieved over, the workmen raised the industrial dispute before the first respondent authority. Some of the workers were transferred to other States. By considering the plight of the workmen, the Labour Court has allowed those petitions where the workmen were transferred to other States. However, the Labour Court dismissed the petitions, wherein the transfer was within the State.



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4. The learned counsel appearing for the respondent relied on the judgment passed by the Hon'ble Supreme Court in the case of Namrata Verma Vs State of Uttar Pradesh in Special Leave to Appeal (C) No(s).36717 of 2017 dated 06.09.2021, wherein it is held that it is not for the employee to insist to transfer and / or not to transfer to a particular place. It is for the employer to transfer an employee considering the requirement for administrating the institution. Therefore, the petitioner Sangam is not having any prerogative right to insist not to transfer.

5. On perusing the transfer orders, it is seen that the workmen were transferred from Dindigul to Tiruppur and some of them to Thiruchengodu. The contention of the petitioner Sangam is that in Tiruppur or Thiruchengodu, the said unit is not belonging to the second respondent. The said contention of the petitioner was refuted by the second respondent by stating that it is a unit where the purchase of yarn is carried on. It is only the purchase unit. The contention of the petitioner Sangam is that the workmen are not trained to work in the said unit. Such contention cannot be entertained. It is within the purview and domain of the employer to post any workmen for the proper administration.



The learned counsel appearing for the petitioner Sangam relied on the standing order of the unit-I, wherein it is stated that the transfer can be effected to any establishment and the same is extracted hereunder:

**31. TRANSFERED**

*Workman are liable to be transferred from one department to another department or from one section to another section or from one job to another job or to anyone of the branches or establishment or place of business of the company according to the exigency and discretion of the Management. In case of refusal, such workman shall be considered as absent from duty for the period of such refusal and a corresponding deduction will be made from his wages in accordance with the provisions of the Payment of Wages Act. Such workmen are further liable for disciplinary action for such refusal under the Standing Order.*

6. It is an admitted fact that Tiruppur and Thiruchengodu is the purchase unit of the second respondent. Therefore, this Court is of the considered opinion that the Labour Court has rightly dismissed the claim of the Sangam and this Court is not inclined to interfere with the award.

7. The learned counsel appearing for the second respondent submitted that subsequently the said units have stopped functioning and the same is evident from the letter circulated to the Enforcement Officer, Employees Provident Fund Organization, where it is stated as under:



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8. The Unit has stopped functioning from September 2018 onwards and therefore, the second respondent submitted that the Management at this juncture decided that the employees cannot be taken into service and hence as full and final settlement, the Management is ready and willing to settle the employees by paying Rs.50,000/- each. Therefore, this Court directs the Management to pay Rs.50,000/- (Rupees Fifty Thousand only) to all the regular employees, Rs.10,000/- (Rupees Ten Thousand only) for the probation



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employees and Rs.25,000/- (Rupees Twenty Five Thousand only) for the persons who are abandoned. Therefore, the said exercise shall be completed within a period of eight (8) weeks from the date of receipt of a copy of this order.

9. With the above observation and direction the Writ Petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

**22.06.2023**

NCC : Yes/No  
Index : Yes / No  
Internet : Yes/ No  
Nsr

To

The Presiding Officer,  
Labour Court,  
Tiruchirappalli.



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**S.SRIMATHY, J.**

Nsr

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