



WEB COPY

W.P.Nos.7288, 8378 of 2004 and 1422 of 2006

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

**DATED: 09.12.2024**

**CORAM :**

**THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

W.P.Nos.7288, 8378 of 2004 and 1422 of 2006

**W.P.No.7288 of 2004:**

1.The Management of  
M.Asam Aeja & Co  
Represented by its Partner  
M.Aeja Ahmed

2.The Management of  
M.Asam Aeja & Co.,

.. **Petitioners**

**Vs.**

1.The Presiding Officer  
Labour Court, Vellore.

2.Y.Mannan  
3.Sundarar  
4.P.Vinayagam  
5.V.K.Panneerselvam  
6.Nandan  
7.K.Dass  
8.N.Ansar  
9.B.Nishar  
10.Sadhulla



W.P.Nos.7288, 8378 of 2004 and 1422 of 2006

WEB COPY

11.Tamilarasan

12.Joint Secretary to Government  
Labour & Employment Dept.  
Government of Tamil Nadu  
Fort St.George, Chennai – 600 009.

13.District Collector  
Chennai Dist.

14.District Collector  
Vellore Dist.

.. **Respondents**

**Prayer:** Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorari, to call for the records of the 1<sup>st</sup> respondent in C.P.No.238 of 2002 and quash its order dated 30.10.2003 and pass such further or other orders.

For the Petitioners : Mr.Anantha Krishnan

For the Respondents : For R1 – Labour Court  
Mr.K.M.Ramesh  
Senior Counsel  
Assisted by Mr.V.Subramani for  
RR2 to 11  
Mr.K.Surendran  
AGP for RR12 to 14

**W.P.No.8378 of 2004:**

*Page 2 of 16*



W.P.Nos.7288, 8378 of 2004 and 1422 of 2006

WEB COPY

1.The Management of  
M.Asam Aejaaz & Co  
Represented by its Partner  
M.Aejaaz Ahmed

2.The Management of  
M.Asam Aejaaz & Co.,  
Thuthupet, Ambur – 638 811.  
Vellore Dist.

.. **Petitioners**

**Vs.**

1.The Presiding Officer  
Labour Court, Vellore.

2.E.Anbu  
3.S.Amadhulla  
4.S.Anbarasan  
5.P.Munusammi  
6.K.Perumal

7.Joint Secretary to Government  
Labour & Employment Dept.  
Government of Tamil Nadu  
Fort St.George, Chennai – 600 009.

8.District Collector  
Chennai Dist.

9.District Collector  
Vellore Dist.

.. **Respondents**



W.P.Nos.7288, 8378 of 2004 and 1422 of 2006

**Prayer:** Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorari, to call for the records of the 1<sup>st</sup> respondent in C.P.No.239 of 2002 and quash its order dated 30.10.2003 and pass such further or other orders.

For the Petitioners : Mr.Anantha Krishnan  
For M/s Agam Legal

For the Respondents : For R1 – Labour Court  
Mr.S.Jagadeeswaran  
for RR2 to 6  
Mr.K.Surendran  
AGP for RR7 to 9

**W.P.No.1422 of 2006:**

1.P.Munusamy  
2.P.Vinayagam  
3.S.Anbarasan  
4.Y.Mannan  
5.K.Doss  
6.V.K.Panneerselvam  
7.S.Sundar  
8.S.Amanullah  
9.E.Anbu

.. **Petitioners**

**Vs.**

1.The Presiding Officer  
Labour Court, Vellore.



W.P.Nos.7288, 8378 of 2004 and 1422 of 2006

2.M.Asalam Aejaaz Tannery  
Tuthipattu, Ambur, Vellore District.

3.M.Asalam Aejaaz and Company  
41, Gajapathy Street, Shenoy Nagar  
Chennai – 600 030.

4.M/s. New Line Leathers  
149, 100 Feet Road, Senthil Nagar  
Chennai – 600 098.

.. **Respondents**

**Prayer:** Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorari, to call for the records of the 1<sup>st</sup> respondent in I.D.Nos.266/2002, 269/2002, 271/2002, 272/2002, 273/2002, 275/2002, 276/2002, 278/2002 and 279/2002 and quash the common award made therein dated 13.04.2005, in so far as the 1<sup>st</sup> respondent has denied and negatived the claim of the petitioners for reinstatement in service, with back wages, with continuity of service and with all other attendant benefits and to pass such other order or direction.

For the Petitioners : Mr.K.M.Ramesh  
Senior Counsel  
Assisted by Mr.V.Subramani

For the Respondents : For R1 – Labour Court  
Ms.M.Ramya  
for M/s Mc Gan Law Firm  
for R4  
Mr.P.Raghunathan



W.P.Nos.7288, 8378 of 2004 and 1422 of 2006

for M/s T.S.Gopalan & Co.  
for R2  
Mr.Anantha Krishnan  
for M/s Agam Legal for R3

### **COMMOM ORDER**

These Writ Petitions are connected to each other and as such taken up and disposed of by this common order.

2. The brief facts leading to the filing of the Writ Petitions are that the Workmen raised a dispute that they were non-employed by the Management and upon failure of conciliation, they made Claim Petition under Section 2 (A) (2) of the ID Act, which was taken on file as I.D.Nos.266/2002, 269/2002, 271/2002, 272/2002, 273/2002, 275/2002, 276/2002, 278/2002 and 279/2002. The claim of the Workmen is that they are working in the petitioner – Management for more than 15 years. While so, on 04.03.2003, without any justification whatsoever they were refused work. The petitioner -Management have made some agreements between themselves to which the Workmen were not a party. Therefore, they prayed reinstatement with



W.P.Nos.7288, 8378 of 2004 and 1422 of 2006

continuity of service and back wages.

WEB COPY

3. The petitioner – Management resisted the claim stating that since there was no work, it was unable to carry on the Concern further. Therefore, it was agreed by everyone else that they will receive Rs.1,500/-. Even thereafter, when job work was attempted to be taken up, there was not enough work. Already, the Workmen have agreed that the concern is closed. Hence, there is no question of reinstatement.

4. The 3<sup>rd</sup> respondent in W.P.No.1422 of 2006 filed a separate counter. It is their case that it has taken over the place on lease and is running the Concern. At that time, it was ascertained that in respect of the erstwhile employees some negotiations were going on and the dispute was pending. The 3<sup>rd</sup> respondent has got no privy with these Workmen and the Workmen are unnecessarily interfering with the business of the 3<sup>rd</sup> respondent and therefore they filed a suit in O.S.No.103 of 2002 and injunction was also granted in the said suit. Since there is a genuine taken over of the



W.P.Nos.7288, 8378 of 2004 and 1422 of 2006

WEB COPY

Management, at best the employees can only claim the compensation under Section 25 (FF) of the Industrial Disputes Act, 1947 (in short 'the Act') and cannot claim reinstatement and back wages.

5. A reply was also filed by the Workmen with reference to the said pleadings. With the said pleadings the Labour Court took up the enquiry. In the enquiry, on behalf of the Workmen one *Anbarasan* was examined as **W.W.1** and Exhibits **W.1 to W.4** were marked. On behalf of the petitioner – Management one *Ramesh Babu* was examined as **M.W.1** and one *V.Asrar Ahamed* was examined as **M.W.2** and Exhibits **M.1 to M.9** were marked.

6. The Labour Court considered the case of the parties and upheld the transfer of the Management as genuine. The Labour Court thereafter, granted the relief of compensation under Section 25 (FF) of the ID Act. Aggrieved by the same, the Workmen have filed W.P.No.1422 of 2006 while the Management has filed W.P.No.8378 of 2004.

7. Heard, *Mr.K.M.Ramesh*, the learned Senior Counsel appearing on

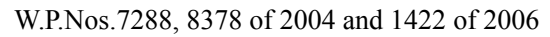


W.P.Nos.7288, 8378 of 2004 and 1422 of 2006

behalf of the Workmen; *Mr.Anand Gopalan*, the learned counsel for the petitioner – Management in W.P.Nos.7288 and 8378 of 2004. *Mr.P.Raghunathan*, learned counsel for the 2<sup>nd</sup> respondent in W.P.No.1422 of 2006.

8. The learned Senior Counsel appearing on behalf of the Workmen would submit that in this case, the plea of the Workmen is that the very same Management had tried to non-employ the petitioners by pleading as if the Management was not in operation. No proper proceedings of intimating about the closure of the original concern or any notice with reference to retrenchment was given. The transfer is sham and nominal. Therefore, the Labour Court ought not to have stopped with the compensation under Section 25 (FF) of the Act, but ought to have ordered reinstatement with back wages.

9. *Per contra*, *Mr.Anand Gopalan*, the learned counsel appearing on behalf of the Management would submit that in this case, the Management had let in evidence and after considering all the documents, the Labour





W.P.Nos.7288, 8378 of 2004 and 1422 of 2006

Workmen are entitled to compensation with reference to Section 25 (FF) of the Act.

12. In view thereof, I am of the view that the award does not call for any interference. However, considering the efflux of time, and that the said amount is not being paid to the Workmen, the said compensation has to be paid with further interest at the rate of 9 % per annum from 01.07.2002 till the date of payment. This apart, the Workmen would also be entitled for the gratuity amount along with statutory interest in respect of the service put in by them.

13. Having adjudicated the issue it has been now brought to the notice of this Court that of the nine Workmen, three of them, viz., *P.Nissar*, *S.Amanulla* and *S.Ansar* have settled the issue with the Management and therefore, nothing remains to be adjudicated with respect to them.

In view of the above finding, the Writ Petition No.1422 of 2006 stands disposed of on the following terms:-

(i) the Writ Petition in respect of the Workmen, viz., *S.Amanulla* is



W.P.Nos.7288, 8378 of 2004 and 1422 of 2006

WEB COPY

dismissed as having settled the issue with the Management. In respect of other petitioners, the respective awards made in I.D.Nos.266/2002, 269/2002, 271/2002, 272/2002, 273/2002, 275/2002, 276/2002 and 279/2002 dated 13.04.2005 shall stand confirmed in as much as it orders the payment of compensation under Section 25 (FF) of the Act. However it has been modified with the following modifications:-

(a) That the compensation payable under Section 25 (FF) shall be calculated in respect of each of the eight petitioners and shall be paid with further interest at the rate of 9 % per annum from the date on which the amount become payable i.e., 01.07.2002 till the date of disbursement.

(b) The petitioners will also be entitled to the gratuity amount for the period of service put in by them and the same shall also be paid with statutory interest.

(c) The Management shall complete the exercise of calculating the amount payable and pay the Workmen along with interest within a period of 12 weeks from the date of receipt of a copy of this order;

(d) If any of the Workmen is no more, the amounts shall be paid to the legal heirs and for that issue no further necessity coming back to this



W.P.Nos.7288, 8378 of 2004 and 1422 of 2006

Court by way of substitution or any other petition.

(ii) No costs.

**W.P.Nos.7288 and 8378 of 2004:**

14. These two Writ Petitions are filed by the Management with reference to the orders passed by the Labour Court in two computation petitions filed by the self same Workmen. When the matter was pending, it is represented by the learned counsel on either side that pending the Writ Petitions the matters have since been settled with reference to the 3<sup>rd</sup> respondent in W.P.No.8378 of 2004 viz., *S.Amanulla* and the respondents 8 and 9 viz., *P.Nissar* and *S.Ansar* in W.P.No.7288 of 2004. Since the matters have settled between the parties outside the Court, in respect of them no further adjudication is necessary and the sums deposited by the Management in respect of the said Workmen is permitted to be withdrawn by the Management. The sum if any to the shares of those three Workmen along with accrued interest shall be permitted to be withdrawn by the Management. In respect of the other Workmen, on instructions, the learned



W.P.Nos.7288, 8378 of 2004 and 1422 of 2006

counsel appearing on behalf of the management would submit that he is no more pressing the Writ Petitions and accordingly, the Writ Petitions stand dismissed as withdrawn. Since the Writ Petitions are permitted to be withdrawn in respect of those Workmen since already the amounts are in deposit to the credit of the respective computation petitions without insisting on any formal application, upon production of the copy of this order along with a memo, the Labour Court shall pay out the amounts by issuing a cheque with reference to the amounts deposited, with reference to each of the Workmen along with accrued interest if any. If any of the Workmen had since passed away, the Legal Heirs shall also file an application for substitution and upon the LR's being substituted, the LR's can be paid the amounts along with the accrued interest.

15. The Writ Petition Nos.7288 and 8378 of 2004 are disposed of on the above terms. No costs.

09.12.2024



W.P.Nos.7288, 8378 of 2004 and 1422 of 2006

Neutral Citation : Yes

WEB COPY  
Jer

To

1.The Presiding Officer  
Labour Court, Vellore.

2.The Joint Secretary to Government  
Labour & Employment Dept.  
Government of Tamil Nadu  
Fort St.George, Chennai – 600 009.

3.The District Collector  
Chennai Dist.

4.The District Collector  
Vellore Dist.

**D.BHARATHA CHAKRAVARTHY, J.**

Jer



WEB COPY



W.P.Nos.7288, 8378 of 2004 and 1422 of 2006

W.P.Nos.7288, 8378 of 2004 and 1422 of 2006

09.12.2024