



WEB COPY

W.P.No. 763 of 2004

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.12.2024

CORAM:

THE HONOURABLE MR. JUSTICE **D.BHARATHA CHAKRAVARTHY**

W.P.No. 763 of 2004

The Management of All India Skin
and Hides, Tanners and Merchants
Association and its Members Rep. by its Secretary,
No. 53, Sydenhams Road,
Periamet, Chennai – 3.

... Petitioner

Vs

1. The Presiding Officer,
Industrial Tribunal,
High Court Campus, Chennai – 104.
2. The North Arcot District Tannery Workers union,
Vaniyambadi, North Arcot.
3. The Thol Pathanidum Thozhilalar Sangam,
(C.I.T.U) Dindigul.
4. The North Arcot District Tannery Workers union,
(C.I.T.U), Vaniyambadi, North Arcot.
5. The Thol Pathanidum Thozhilalar Sangam,
(C.I.T.U), Ambur.
6. The Thol Pathanidum Thozhilalar Sangam,
(C.I.T.U), Ranipet.



W.P.No. 763 of 2004

WEB COPY

7. The Pallavaram, Chrompet Tannery Workers Union (C.I.T.U.), Nagelkeni, Chennai.
8. The Tiruchy Thol Pathanidum Thozhilalar, Sangam (A.I.T.U.C.), Sembattu, Trichy.
9. The North Arcot District Leather, Workers Union, Kaspas, Ambur, North Arcot District.
10. The Thol Pathanidum Thozhilalar Sangam, (A.I.T.U.C), Erode.
11. The Madhavaram Tannery Workers, Union (A.I.T.U.C), Madhavaram, Chennai.
12. The Labour Progressive Federation, Chennai.
13. The Dindigul Tannery & General Workers, Union (LPF), Kottaikulam Road, Dindigul.
14. The INTUC Thol Pathanidum Thozhilalar Sangam, Sembattu, Trichy.
15. The North Arcot District Youth Congress General Workers Union (INTUC), Vaniyambadi, North Arcot District.
16. The Tamil Nadu Tannery & General Workers Union, Pallavaram, Chennai.
17. The Tamil Nadu Democratic Tannery & General, Workers Union, Pernampet, North Arcot District.
18. The Anna Tannery & Shoe Workers Union, Vaniyambadi, North Arcot.



W.P.No. 763 of 2004

WEB COPY

19. The Leather and Leather Goods Democratic Labour Union, Vaniyambadi, North Arcot District.
20. The North Arcot District Tannery Shoe and Beedi Workers Union, Kaspa Ambur, North Arcot District.
21. The North Arcot District National Tannery Workers Union, Ranipet, North Arcot District.
22. The North Arcot Tannery Workers Federation, INTUC, Vellore, North Arcot District.
23. The Leather & Shoe Desiya Pothu Thozhilalar, Sangam, Ambur, North Arcot District.
24. The Indian National Trade Union Congress Madras.
25. The All India National Trade Union Congress Madras.
26. The Central Organisation of India Trade Union, Madras.
27. The Anna Thozhil Sanga Peravai, Madras.
28. The Indian Employees Union, Madras.
29. The North Arcot Pothu Tannery and Shoe Thozhilalar Sangam, Ambur, North Arcot District.
30. The National Rajiv Gandhi Tannery Shoe and General Workers Union, Reg No. 784, MTS Ambur, N.A.Ambedkar District.
31. The North Arcot District Tannery & Shoe Desiya Thozhilalar Union Regd. No. 707/UAR, Elamakuppam, Devalampuram, N.A.Ambedkar District.



W.P.No. 763 of 2004

WEB COPY

32. The North Arcot District Leather &
Leather Goods, General Workers Union Regd No. 673,
NAT, 69, can Road, Kathurpettai,
Vaniyambadi, North Arcot Ambedkar District. ... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorari, calling for the records relating to the award dated 20.11.2003 passed in I.D.No. 77/89 on the file of the Presiding Officer, Industrial Tribunal, Chennai, the first respondent and quash the same.

For Petitioner : Mr.S. Raghunathan
for Mr.J.James

For R4, 5, 12, 13,
29, 30 : Mr.V.Govarthanan

For R19 : Mr.K.M.Ramesh, Senior Counsel
for N. Parameswari

For R22 : Mr.R.D.Ashok Kumar
for Mr.S.N. Ravi Chandran

ORDER

The writ petition is filed challenging the Impugned Award of the Industrial Tribunal, Chennai dated 20.11.2003 made in I.D.No. 77 of 1989.

2. The workmen involved in the leather tanning industry spread across various managements, had raised a joint dispute that the leather tanning industry, in spite of the workmen being regularly employed throughout the



W.P.No. 763 of 2004

year had been paying them only on daily wages. Therefore, upon a dispute being raised, the Government of Tamil Nadu referred the following issue for adjudication by the Industrial Tribunal, considering the fact that the issue pertains to a large number of workmen working in the industry. The question which is referred is as follows:-

“Whether the demand of the workmen for monthly wage scale for all the workers in the Tanneries in Tamil Nadu is justified; if so, to fix the same for the different grade.

Whether the demand of the workmen for change of dearness allowance pattern to monthly basis is justified, if so, to fix the same.”

3. Before the Industrial Tribunal, the claim of the workmen was that their work was regular and that there are also precedents in the industry that the wage period shall be monthly and cannot be on daily wages. The claim of the workmen was resisted by the management on the ground that the work is seasonal in nature. The Industrial Tribunal had gone into the evidence on record and came to the conclusion that the work is not seasonal in nature and is regular in nature and persistent throughout the year. Considering the perennial nature of the work and also with reference to various wage settlements which were entered into and produced as evidence as Ex. W2,



W.P.No. 763 of 2004

W5, W6, W8, W15, W17, W18 to 22, W28 to W32 etc., the Industrial Tribunal allowed the claim of the workmen. The Industrial Tribunal also considered the judgments of the Honourable Supreme Court of India in ***Chief Conservator of Kondhare and other vs. Jagannath Maruthi Kondhare and others***¹ and also the judgement in ***Daily Rated Casual Labour Employed under P & T Department Vs. Through Bharatiya Dak Tar Mazdoor Manch Vs. Union of India and others***² and passed an award, answering the reference in favour of workmen, that there shall be monthly wages and monthly dearness allowance on the basis of the gradation which is already fixed through the Tripartite Committee report. Challenging the same, the management is before this Court.

4. The award was passed in the year 2003 and the writ petition is of the year 2004. On several occasions in the earlier years, the matter has been listed, but however was not argued. The matter came before my predecessor on 15.10.2024 and there was no representation on behalf of the petitioner management. Thereafter, the matter was adjourned to 17.10.2024. Again on 22.10.2024 when the matter was reached, the learned counsel representing the

1 1996 (2) SCC 293

2 1988 1 LLJ 370



W.P.No. 763 of 2004

petitioner sought an adjournment to post the matter after two weeks.

Accordingly, once again, the matter came up before this Court on 27.11.2024.

On that day, the arguments on behalf of the workmen was heard and the matter was treated as part-heard and adjourned for the arguments on behalf of the management on 09.12.2024.

5. Today, Mr.S.Raghunathan, the learned representing counsel for the management represents that the Counsel is unwell on account of heart ailment and therefore requests that the matter be adjourned. Considering the fact that the writ petition is of the Year 2004 and the management has been taking time on various dates, including the last three occasions, the management should have made alternative arrangements to argue the matter. Therefore, since the writ petition is of the year 2004 and 20 years have already passed since the admission of the writ petition, this Court has no other option than to proceed to consider the matter on merits.

6. Even before the Industrial Tribunal, the Tribunal has extracted the cross examination of the witness belonging to the management. There is no



W.P.No. 763 of 2004

additional burden or difficulty on account of the payment of wages on monthly basis. Section 4 of the Payment of Wages Act, 1936 categorically imposes a responsibility on the management to fix the wage periods. It is essential to extract Section 4, which reads as follows:-

“4. Fixation of wage-periods—(1) Every person responsible for the payment of wages under section 3 shall fix periods (in this Act referred to as wage-periods) in respect of which such wages shall be payable.

(2) No wage-period shall exceed one month.”

7. Further, it can be seen that settlements have been entered into by several of the managements, in the very same industry, namely leather and leather tanning industry, where the workmen are being paid only on a monthly basis, whereas some of the managements have been eluding this. Further, considering the longstanding grievances of the workmen, the government had also appointed a Tripartite Committee consisting of representative of the workmen, management and also the Government. After deliberations, the committee recommended the payment of wages on a monthly basis is very much feasible and recommended for grant of such wages. The Industrial Tribunal also considered the same while passing the award.



W.P.No. 763 of 2004

8. I have gone through the various grounds on which the writ petition is filed. Once again, the argument is made that the Tanning industry is a seasonal industry. When the workmen have proved that they are receiving wages throughout the year, it cannot be pleaded again. Furthermore, financial incapability is pleaded. Financial incapability cannot be an exception to comply with the requirement of labour laws and unfair labour practice cannot be perpetuated by citing financial incapability. If the workmen is regularly employed, it goes without saying that he is entitled for a weekly rest, holidays and the payment of wages should be on such periods as may be specified in the industry. The industry norm also seems to be monthly wages only. Therefore, the petitioner management cannot shirk off their responsibility under Section 4 of the Payment of Wages Act, 1936 and continue to pay only daily wages even though the workmen have been employed regularly and perennially.

9. In view thereof, finding no merits, the writ petition stands dismissed.

No costs.

09.12.2024

Neutral Citation: Yes/No
nsl

9/10



WEB COPY



W.P.No. 763 of 2004

D.BHARATHA CHAKRAVARTHY, J.

nsI

To
The Presiding Officer,
Industrial Tribunal,
High Court Campus, Chennai – 104.

W.P.No. 763 of 2004

09.12.2024