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W.P.No. 973 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:
13.11.2025

Delivered on :
04.12.2025

CORAM:

THE HON'BLE MR.JUSTICE HEMANT CHANDANGOUDAR

W.P.No.973 of 2022

and

W.M.P.No. 1037 of 2022

M/s MRF Limited
P.B No. 1, Eripakkam,
Nettapakkam Commune,
Puducherry,
Rep by its Plant Head

..Petitioner

Vs

K. Velmurugan (Emp No. 601370)

..Respondent

Writ Petition is filed under Article 226 of Constitution of India, praying for issuance of a Writ of Certiorarified , calling for the records of the Industrial Tribunal-cum-Labour Court, Puducherry in ID(L) No. 36 of 2017 and quash its award dated 13.10.2021 and pass such further or other orders.

For Petitioner : Mr. Anand Gopalan
For M/s.T.S. Gopalan and Co
For Respondent : Mr. P.R. Thiruneelakandan



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ORDER

The challenge in this writ petition is to the award dated 13.10.2021 passed by the Industrial Tribunal-cum-Labour Court, Puducherry in I.D.(L) No. 36/2017. By the said award, the Labour Court allowed the dispute referred by the Government of Puducherry under Section 10(1)(C) of the Industrial Disputes Act, 1947 (“Act, 1947” for the sake of brevity) and directed the petitioner-management to reinstate the respondent-workman into service with 50% back wages and other attendant benefits.

2.1. The respondent claims that he was selected through an interview and appointed as a workman under the petitioner-management to operate the rapping machine in the BEAD Section of Door-1 Department with effect from 26.07.2007. While employed, he alleges that he was removed from service on 21.11.2011 without issuance of any prior notice, and a consequential termination order was issued to him on 31.01.2012. The respondent raised an industrial dispute before the Conciliation Officer. The Conciliation Officer submitted a failure report on 21.03.2017, following which the Government of Puducherry referred the dispute under Section 10(1)(C) of the Act, 1947 by order dated 29.05.2017.



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2.2. The petitioner-management entered appearance and filed a detailed counter, contending inter alia that the respondent approached the Conciliation Officer after an inordinate and unexplained delay. It was further contended that the respondent was engaged only as an apprentice trainee pursuant to order dated 01.04.2008, with a fixed stipend during the training period, and the apprenticeship was structured for 42 months in four spells, of which the respondent was initially engaged for six months. According to the petitioner, the respondent was lethargic, absented himself from training from 22.10.2011 without justification, and his performance was unsatisfactory; therefore, the management was constrained to terminate his engagement.

2.3. To substantiate their respective cases, the respondent-workman examined himself as PW1 and marked Ex.P1 to Ex.P8, whereas the petitioner-management examined one witness as RW1 and marked Ex.R1 to Ex.R29. Upon appreciation of the oral and documentary evidence, the Labour Court passed the impugned award, aggrieved by which the present writ petition has been filed.

3. Mr. Anand Gopalan, learned counsel for the petitioner-management, advanced the following submissions:



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- i. The respondent was terminated on 21.11.2011, but the dispute under Section 2A of the Act, 1947 was raised only on 30.10.2015 before the Conciliation Officer. Hence, on the date of raising the dispute, it was barred by limitation under Section 2A(3) of the Act, 1947.
- ii. The respondent does not fall within the definition of “workman” under Section 2(s) of the Act, 1947, as he was appointed only as an apprentice trainee for a period of 42 months in accordance with the company’s apprenticeship scheme.
- iii. The respondent had voluntarily abandoned service, and despite several opportunities afforded by the management, he failed to resume duty, forcing the management to terminate him.

4. In support of the above submissions, learned counsel relied upon the following decisions:

- i. D. Sathiya Narayanan v. Presiding Officer (W.P. Nos. 33573–33580 of 2024, dated 27.07.2023)*
- ii. D. Babu v. Presiding Officer, Principal Labour Court, Vellore & another (W.P. No. 302 of 2017, dated 31.08.2023)*
- iii. S. Sarathy v. Presiding Officer, Principal Labour Court, Vellore & another (W.P. No. 15200 of 2010, dated 29.11.2023)*
- iv. K.S. Karthikeyan v. Presiding Officer, Labour Court-cum-Industrial*



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Tribunal, Pondicherry (W.P. Nos. 29708 of 2018 and 5913 of 2019, dated 26.03.2025)

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5. In response, Mr. P.R. Thiruneelakandan, learned counsel for the respondent-workman, submitted that Section 2A(3) of the Act, 1947 has no application to a dispute referred by the appropriate Government under Section 10(1)(C) of the Act. He argued that Section 2A(3) applies only to an individual dispute raised directly by a workman under Section 2A(2). The legislature, while inserting sub-section (3) to Section 2A, did not amend Section 10(1)(C), which continues to empower the Government to refer an industrial dispute “at any time.” Therefore, the contention that the reference is barred by limitation is wholly untenable.

6. Learned counsel further contended that even assuming the respondent was appointed as an apprentice trainee, the appointment was admittedly made under the company’s internal apprenticeship scheme, and not under the Apprentices Act, 1961. Only apprentices appointed under the Apprentices Act are excluded from the definition of “workman” under Section 2(s). Hence, the respondent squarely falls within the definition of “workman.” Reliance was placed on the following judgments of the Hon’ble Supreme Court:

i. Prabhakar v. Joint Director (2015) 15 SCC 1



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ii. *K.V. Pathrose v. Divisional Controller, KSRTC (Civil Appeal No.*

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7. Learned counsel also submitted that the respondent's name appears in the muster roll and the Register of Adult Workers, maintained under Rules 88 and 115 of the Puducherry Factory Rules, 1964, which apply only to workers under Section 2(l) of the Factories Act, 1948. Apprentices are specifically excluded from these statutory registers. The inclusion of the respondent's name in these registers unequivocally establishes that the petitioner-management treated him as a regular workman, not a statutory apprentice

8. After considering the rival submissions of the learned counsel on either side and the materials placed on record, the key points that arise for consideration are as follows:

1. Whether the dispute referred to by the Government of Puducherry under Section 10(1)(C) of the Act, 1947 was barred by limitation.
2. Whether the respondent falls within the ambit of "workman" as defined under Section 2(s) of the Act, 1947 and, if so,
3. Whether the workman is entitled to the relief granted by the Labour Court.



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9. Point No. I

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Before advertng to the merits of the issue, it is necessary to examine the scope, object, and legal effect of Sections 2A and 10 of the Industrial Disputes Act, 1947.

9.1. Section 2A of the Act, 1947 deems the termination of an individual workman to be an industrial dispute, even without the support of other workmen or a union. Under sub-section (2), the workman may approach the Labour Court or Tribunal directly after 45 days from applying to the Conciliation Officer, but such application must be filed within three years from the date of termination.

9.2. Sub-section (3) thus clearly mandates that an individual workman must raise the dispute before the Labour Court within three years from the date of termination.



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9.3. Section 10(1)(c):

Section 10(1) of the Industrial Disputes Act, 1947 provides:

“10. Reference of disputes to Boards, Courts or Tribunals.—

(1) Where the appropriate Government is of opinion that any industrial dispute exists or is apprehended, it may at any time, by order in writing,—

...

(c) refer the dispute, or any matter connected with or relevant to it, if it relates to any matter specified in the Second Schedule, to a Labour Court for adjudication.”

A reading of Section 10(1)(c) indicates that once the Government forms the opinion that an industrial dispute exists or is apprehended, it may, at any time, refer the dispute to a Labour Court for adjudication. Section 10 expressly uses the phrase “at any time,” thereby conferring wide discretion on the Government without prescribing any fixed time limit.

9.4 In contrast, Section 2A(3) specifically prescribes a three year limitation only for disputes raised directly by an individual workman before the Labour Court, after failure of conciliation. This limitation is not made applicable to disputes referred by the Government under Section 10(1)(c).



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Notably, Section 2A was amended with effect from 15 March 2010, and although Section 10 already existed in the statute, Parliament did not extend the limitation under Section 2A(3) to the references made by the Government under Section 10.

9.5. Section 2A operates in a distinct field and is an enabling provision that allows a workman to seek direct adjudication under sub-section (2) without the involvement of the Government.

9.6. The petitioner contends that since the dispute was raised under Section 2A and the reference was made by the Government under Section 10(1) (c), sub-section (3) of Section 2A should be deemed applicable to such Government references. Though the submission appears attractive at first glance, it cannot be accepted. Section 10(1) explicitly provides that the Government may refer to a dispute at any time, and there is no provision in Section 10 incorporating or adopting the three-year limitation prescribed under Section 2A(3). Sub-section (3) of Section 2A cannot be read into or adopted for proceedings under Section 10, as Section 10 expressly empowers the Government to refer a dispute “at any time.” Any interpretation that applies the three-year limitation under Section 2A(3) to a Government reference under Section 10 would effectively nullify the statutory expression “at any time” and defeat the legislative intent underlying Section 10.



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9.7. The termination order is dated 31.01.2012 (Ex. P4). The workman sent a request letter to the management on 16.03.2013 seeking permission to rejoin duty, but the representation was not considered. The dispute was thereafter raised before the Conciliation Officer, Labour Department, Puducherry, on 13.10.2015 admittedly more than three years after the date of termination. The Hon'ble Supreme Court in Prabhakar (supra) summarised the legal position under Section 10(1) of the Act, 1947, holding that in the absence of a prescribed period of limitation, the Government must consider whether it is expedient to make a reference. The Apex Court held as follows;

“42.6. In those cases where there was no agitation by the workman against his termination and the dispute is raised belatedly and the delay or laches remain unexplained, it would be presumed that he had waived his right or acquiesced into the act of termination and, therefore, at the time when the dispute is raised it had become stale and was not an “existing dispute”. In such circumstances, the appropriate Government can refuse to make reference. In the alternative, the Labour Court/Industrial Court can also hold that there is no “industrial dispute” within the meaning of Section 2(k) of the Act and, therefore, no relief can be granted.”

9.8. The Apex Court further clarified that “ in those cases where the



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court finds that dispute still existed, though raised belatedly, it is always permissible for the court to take the aspect of delay into consideration and mould the relief. In such cases, it is still open for the court to either grant reinstatement without back wages or lesser back wages or grant compensation instead of reinstatement”

9.9. In this case, the workman made a representation on 16.03.2013 calling upon the management to reinstate him, and therefore it cannot be said that he had abandoned his claim for reinstatement. The workman, in the expectation that he would be reinstated, waited, and when his claim was ultimately not considered, he approached the Conciliation Officer on 13.10.2015. The Government, upon considering the workman's case, came to the conclusion that an industrial dispute existed and accordingly referred the matter under Section 10(1)(c). Though the dispute was raised belatedly, it cannot be said to be barred by delay or laches. Moreover, once the Government forms the opinion that an industrial dispute exists, and if the workman is ultimately reinstated, the Labour Court or this Court may mould the relief in accordance with the legal principles laid down by the Hon'ble Supreme Court in Prabhakar (supra).

9.10. In light of the above discussion, I am of the view that sub-section (3) of Section 2A cannot be applied to a reference made by the Government



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under Section 10(1)(c). This point is, therefore, answered in the negative

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10. Point No. II:

10.1. Ex. P1 is a photocopy of the appointment order dated 01.04.2008 issued by the petitioner-management to the respondent-workman. The appointment order shows that the apprenticeship offered to the respondent was under the company's scheme and that the apprenticeship training was for a total period of 42 months, consisting of four spells— the first spell of 6 months with a consolidated stipend of Rs. 90/- per day, the second spell of one year with a stipend of Rs. 105/- per day, the third spell of 12 months with a stipend of Rs. 120/- per day, and the final spell of one year with a stipend of Rs. 135/- per day. The appointment order further states that, upon completion of the total apprenticeship period, the services of the respondent as an apprentice would stand automatically terminated. However, he may be considered for the post of Probationer on satisfactory completion of training, at the discretion of the company, depending upon exigencies and vacancy position. The first spell commenced on 01.04.2008.

10.2. Ex. P5 is the termination letter dated 31.01.2012. The termination letter (Ex. P4) states that during the apprenticeship period, the respondent-workman did not show interest in learning the job and that his performance was



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unsatisfactory with no improvement shown. Consequently, the apprenticeship was terminated with immediate effect as per Clause 8 of the appointment order.

11. Admittedly, the respondent was terminated after the expiry of 42 months, and therefore the termination was not on account of efflux of time. Section 2(s) of the Act, 1947 defines 'workman' to include any person (including an apprentice) employed in any industry to do any of the enumerated types of work, and for the purpose of proceedings under the Act in relation to an industrial dispute, includes any such person who has been dismissed.

12. The petitioner-management contends that the respondent was appointed as an apprentice under the company's scheme and therefore does not fall within the definition of 'workman'. This contention is rejected, as the definition expressly includes an apprentice. The petitioner further contends that the termination falls under Section 2(oo)(bb) of the Act, 1947, and therefore does not amount to retrenchment so as to attract Section 25(F). Section 2(oo) (bb) excludes from the definition of retrenchment the termination of a workman's services as a result of non-renewal of the contract of employment on its expiry or termination under an express contractual stipulation.

13. In the present case, the termination of the respondent-workman was



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not due to the expiry of the 42-month apprenticeship period provided in the appointment order, but was on account of alleged unsatisfactory performance and lethargy. Therefore, the contention of the petitioner-management that the termination falls under Section 2(oo)(bb) and that Section 25(F) is not attracted is without merit.

14. The name of the respondent–workman appears in the muster roll and in the Register of Adult Workers (Forms 12 and 23) under the Puducherry Factories Rules, 1964. These registers are maintained only for workers and not for apprentices.



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15. The respondent–workman, examined as PW1, categorically stated that he was employed in the production department, that the nature of his work was perennial, and that the petitioner–management supervised and controlled his work at all stages of operation. He also stated that he had completed 240 days of continuous service in each calendar year. RW1 categorically admitted that there was no trade apprenticeship for a tyre manufacturing company. The Labour Court, on a perusal of RW1’s evidence, observed that the workman was provided with an employee code—2140—assigned to regular workmen. RW1 also admitted that the petitioner–management deducted ESI contributions from the respondent’s salary and that the petitioner–management did not possess a licence from the Government to impart training.

16. Section 2(9) of the Employees’ State Insurance Act, 1948 defines the term '*employee*' to mean any person employed for wages in or in connection with the work of a factory or establishment to which the Act applies, and it expressly includes an apprentice, other than an apprentice engaged under the Apprentices Act, 1961. Since the respondent–workman was not appointed under the Apprentices Act, 1961, and the petitioner–management contributed ESI contributions in respect of him, it clearly implies that the respondent was treated on par with a regular employee and not as an apprentice under the



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Apprentices Act, 1961.

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17. Further, an apprentice appointed under a company scheme also falls within the definition of ‘workman’ under Section 2(s) of the Industrial Disputes Act, 1947, and within the definition of ‘employee’ under Section 2(9) of the ESI Act, 1948. The muster roll, wage register, and the admission of the petitioner–management regarding contribution to the ESI fund clearly establish that the respondent was not working as an apprentice trainee, but as a regular workman . The so-called apprenticeship appointment was, therefore, merely a camouflage to deny him the benefits of a permanent employee.

18. In view of the above, Point No. II is answered in the positive. Accordingly, Point No. III with regard to the entitlement of relief granted by the Labour Court is also answered in the positive.

19. The Labour Court, after considering the evidence and the records, has recorded the findings. Such findings cannot be interfered with in the writ jurisdiction unless they are based on no evidence, or are perverse or arbitrary. In the absence of any such grounds, the impugned findings recorded by the Labour Court cannot be disturbed. However, the fact that the dispute was raised after a lapse of three years cannot be ignored, though the delay is not



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substantial. While the delay may not, by itself, render the reference invalid particularly in view of the Government's satisfaction under Section 10(1), it remains a relevant factor in moulding the relief. Therefore, in order to balance the equities between the management and the workman, and to ensure that the employer is not unduly prejudiced by the belated initiation of proceedings, it would be appropriate to further moderate the relief of back wages by reducing the quantum from 50% to 40%.

20. Accordingly, the writ petition stands disposed of by sustaining the impugned award insofar as it relates to reinstatement, continuity of service, and attendant benefits. However, the back wages are restricted to 40%. Consequently, the connected miscellaneous petition is closed. There shall be no order as to costs. The aforesaid exercise shall be completed within a period of three (3) months from the date of receipt of a copy of this order.

04.12.2025

Index : Yes

Neutral Citation : Yes

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HEMANT CHANDANGOUDAR, J.

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