



W.P. No.1849 of 2022

3.IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.08.2025

WEB COPY

CORAM

THE HONOURABLE Mr. JUSTICE P.DHANABAL

W.P. No.1849 of 2022

and

W.M.P. Nos.1996 and 1997 of 2022

M/s. Tractors & Farm Equipment Limited

Represented by Mr. C.P. Sounderarajan

... Petitioner

vs.

T. Ramesh

.. Respondent

PRAYER: The Writ petition is filed under Article 226 of the Constitution of

India praying to issue a Writ of Certiorari calling for records connected with

I.D. No.139 of 2018 on the file of the Presiding Officer, II Additional Labour

Court, Chennai and to quash the Award dated 29.12.2021.

For petitioner : Mr. Sanjay Mohan, Standing Counsel
For Mr. S. Ramasubramaniam and
Associates.

For Respondent : Party-in-Person

ORDER

This Writ petition has been filed challenging the order passed by the II Additional Labour Court, Chennai in I.D. No.139 of 2018 dated 29.12.2021, wherein the respondent herein raised an industrial dispute praying to pass an



W.P. No.1849 of 2022

Award to set aside the order of termination dated 20.12.2017 issued by the petitioner and consequently, to direct the petitioner to reinstate the respondent into service with full backwages together with all attendant benefits. The Labour Court allowed the industrial dispute and directed the Writ petitioner to reinstate the respondent into service with full backwages with continuity of service along with all other attendant benefits.

2. The short facts necessary to dispose the Writ petition are as follows:-

The petitioner is a company registered under the Indian Companies Act. The respondent was appointed as an 'Assistant Executive' on 12.10.2005. At the time of joining, the respondent had executed a confidential undertaking, considering the fact that his nature of job is utmost confidential. Thereafter, the respondent was promoted as 'Executive Secretary' to the President and Chief Operating Officer. While so, during the course of Internal Audit of Accounts of the petitioner, it was found that a sum of Rs.1,20,000/- was transferred to the Savings account of the respondent by M/s. Naveen Tours (P) Limited on 08.04.2015 and the same was accepted by the respondent. Therefore, the respondent had indulged in fraud and misappropriation of the money to the tune of Rs.1,20,000/- for his personal gain, which constituted

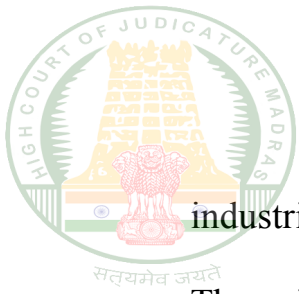


W.P. No.1849 of 2022

serious 'misconduct'. Therefore, a Suspension-cum-Charge Memo was issued on 27.06.2017 to the respondent and the respondent was also replied for the said Charge Memo on 29.06.2017, which was found unsatisfactory.

2.1. In the meantime, another complaint dated 04.07.2017 was received by the petitioner from one Mr. Chandramouli, Vice President stating that the respondent had not only involved in the financial malpractices, but also involved in the false propaganda to the effect that the senior officers have been damaging the respondent's name. Therefore, again a Show Cause Notice was issued on 05.07.2017 and the same was replied by the respondent. Since the said reply was not satisfactory, enquiry proceedings were conducted in accordance with law and by following the principles of natural justice. The enquiry officer rendered findings that the charges against the respondent were proved. Thereafter, the petitioner issued a second Show Cause Notice dated 29.11.2017 and the respondent had also sent his explanation dated 11.12.2017.

2.2. Being not satisfied with the explanation, the petitioner passed an order by imposing punishment of dismissal from service through an order dated 20.12.2017. Aggrieved by the said order, the respondent raised an



W.P. No.1849 of 2022

industrial dispute before the Labour Court, Chennai in I.D. No.139 of 2018.

The said industrial dispute was allowed. Aggrieved by the said order, the present Writ petition has been filed.

3. The learned counsel appearing for the petitioner would submit that the respondent had indulged in fraud and misappropriation of the money to the tune of Rs.1,20,000/- and thereafter, he also made false propaganda and thereby, two separate Show Cause Notices were issued to him and he also gave reply. Being not satisfied with the reply of the respondent, the petitioner Management conducted a domestic enquiry and as per the enquiry report, the charges against the respondent were proved, thereby the Disciplinary Authority, considering the gravity of charges, dismissed the respondent from service. Aggrieved by the same, the respondent raised an industrial dispute before the Labour Court. The Labour Court, without considering the gravity of the charges and evidences, allowed the industrial dispute and set aside the dismissal order passed by the Disciplinary Authority and directed the petitioner reinstate the respondent into service and also directed to pay full backwages with continuity of service and all other attendant benefits.

3.1. The Labour Court failed to consider that the respondent is not coming under the purview of 'workman' as per the definition under Section 2(s) of the Industrial Disputes Act and he was working as 'Executive



W.P. No.1849 of 2022

Secretary', which is supervisory in nature and sufficient opportunity was given to the respondent in the enquiry proceedings and he also participated in the enquiry and thereafter only, based on the evidences, the enquiry officer rendered findings and the Disciplinary Authority also accepted the findings of the enquiry officer and after issuing notice to the respondent only, the Disciplinary Authority passed an order of dismissal from service. Therefore, without considering the above said aspects, the Labour Court erroneously set aside the order passed by the Disciplinary Authority. The termination order passed by the petitioner can be justified even on the basis of genuine loss of confidence. The Labour Court failed to consider the same and passed the impugned order. Therefore, this Writ petition is to be allowed by setting aside the order of the Labour Court.

3.2. In support of his contention, the learned counsel appearing for the petitioner Management has relied upon the following judgments:

- 1. D.K. Yadav vs. J.M.A. Industries Ltd., reported in (1993) II LLJ 696.***
- 2. Union of India (UOI) vs. T.R. Varma reported in (1958) II***



WEB COPY



W.P. No.1849 of 2022

LLJ 259 SC.

3.State of Mysore vs. S.S. Makapur reported in (1964) I LLJ 24 SC.

4.Workmen of Balmadies Estates vs. Management Balmadies Estate and others reported in (2008) 4 SCC 517.

5.Francis Klein & Co., (P) Ltd., vs. Their Workmen and others reported in (1971) I LLJ 615.

6.Air-India Corporation Bombay vs. V.A. Rebellow and others reported in (1972) I LLJ 50.

7.Hindustan Steels Ltd., Rourkela vs. A.K. Roy and others reported in (1970) I LLJ 228.

8.L. Michael and another vs. M/s. Johnson Pumps Ltd., reported in (1975) I SCC 574.

9.Municipal Committee, Bahadurgarh vs. Krishnan Behari and others reported in (1996) 2 SCC 714.

10. Sri Gopalakrishna Mills Pvt. Ltd., vs. Labour Court and others reported in (1980) I LLJ 425 Mad.

11. T. Seeralan vs. The Presiding Officer, II Additional Labour Court and others in (1986) II LLJ 85 (Mad.).

12. Dharmapuri District Co-operative Sugar Mills vs. The



WEB COPY



W.P. No.1849 of 2022

Presiding Officer, Labour Court, Vellore and others reported in 1997(1) LLN 391.

13. Assistant General Manager, T.I. Cycles of India Ltd., vs. Presiding Officer, Labour Court and others reported in 2003 (2) LLN 796.

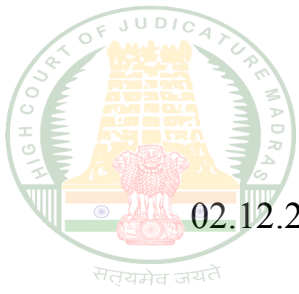
14. Janatha Bazar (South Kanara Central Co-operative Whole Sale Stores Limited) and others vs. The Secretary, Sahakari Noukarara.

15. Godrej & Boyce Manufacturing Company Ltd., vs. Principal Labour Court, Madras and others reported in 1996 2 LLN 627.

16. The Management of K.P.V. Shaik Mohammed Rowther and Co. (P) Ltd., P. Govindarajulu and others reported in (1996) II LLJ 111.

17. Engine Valves Ltd., vs. Labour Court, Madras and others reported in 1991 I LLJ 372.

4. The respondent, who appeared as 'party-in-person' would submit that he joined the petitioner company on 06.02.2004 as Secretary on a contract roll. Thereafter, he was periodically promoted and lastly promoted to the post of 'Executive Secretary' to the President and Chief Operating Officer on



W.P. No.1849 of 2022

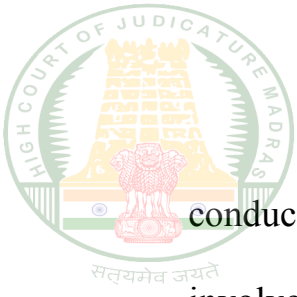
02.12.2013. The President and Chief Operating Officer Mr. G. Hari recommended the name of the respondent to the next grade of J2 Deputy Manager, but unfortunately, the respondent was not promoted for reasons best known to the petitioner. After the exit of his superior Mr. Hari, who relinquished from his position, the respondent was not assigned any official job without any reasons. Thereafter, his computer was removed citing virus problem and his email ID was also blocked without any reasons. The respondent was utilized by his then President for all his personal works like booking air tickets and monthly bills. He also explained about his position to his relieving officer through SMS and also by a letter dated 06.02.2017. While so, on 08.03.2017, the respondent was called by one Mr. Muralidharan, Divisional Manager, HR and asked him to resign from the job on his own, failing which he was threatened that he would be terminated from the service. Immediately, the respondent sent an email communication to the Chairman requesting her to consider his past records, but there was no reply. In those circumstances, the respondent could not withstand the pressure exerted by the petitioner. Finally, due to coercion, on 20.03.2017, the respondent gave his resignation letter stating that he may be relieved with effect from 30.06.2017 with 3 months' notice on either side.



W.P. No.1849 of 2022

WEB COPY

4.1. At the time of his resignation, he was assured by one Mr. Muralidharan, HR that they will do the needful for getting a job through their known consultants. In the above said circumstances, the respondent sent a letter dated 06.06.2017 by an email withdrawing his letter of resignation which was valid till 30.06.2017, i.e., within the notice period. Pursuant to this, he was called over phone by Mr. N. Mahesh, Senior GM-HR on 27.06.2017 for a discussion and at that time, he was asked to sign in a letter already typed by one Mahesh with contents that "letter dated 06.06.2017 was mistakenly sent by the respondent due to pressure", but the respondent denied and thereafter, a Show Cause Notice was issued on 27.06.2017 alleging that the respondent misappropriated the funds to the tune of Rs.1,20,000/- and the same was suitably replied by the respondent. The respondent sent an email on 28.03.2015 to the Senior VP-GM to provide bank details. But no any reply was received by him. While so, the respondent received another Show Cause Notice on 05.07.2017 and the same was replied by him on 07.07.2017. In spite of that, the petitioner Management conducted a domestic enquiry without following the principles of natural justice. The respondent did not have any knowledge about the enquiry proceedings. He requested assistance of a Lawyer, but the same was denied by the petitioner Management. The respondent through a letter dated 29.06.2017 requested the management to



W.P. No.1849 of 2022

conduct the enquiry with the officials namely Mr. Hari and subramanian involved in the transactions, but the Management failed to question the officials involved. Instead, the domestic enquiry was conducted only against the respondent. Therefore, the enquiry is a biased one.

4.2. There are no materials to prove the charges levelled against the respondent. However, the Enquiry officer rendered erroneous findings that the charges were proved and the Disciplinary Authority also without any materials to prove the charges, accepted the enquiry report of the Enquiry Officer and issued a second Show Cause Notice and the same was also suitably replied by the respondent. However, the petitioner Management awarded punishment of dismissal from service. The said punishment was challenged by the respondent by raising an industrial dispute before the Labour Court. The nature of job of the respondent was clerical in nature and he cannot perform his role on his own without the instructions of his superior. The details of the job carried out by the respondent was taking dictation, typing, conducting meetings, sending Minutes, compiling management information, getting information from other departmental heads, interacting with them, arranging interviews, keeping files and documents, booking flights and rooms, meeting with dealers, consultants and suppliers on behalf of his



W.P. No.1849 of 2022

superiors. Therefore, the nature of job carried out by the respondent is only clerical in nature. However, the punishment inflicted on the petitioner by way of termination order is illegal and extreme. Therefore the Labour Court has considered all those aspects and passed a reasoned order and the present writ petition is liable to be dismissed.

4.3. In support of his contentions, the respondent, who appeared party-in-person, has relied upon the following judgments:

1. Dalip Singh vs. State of U.P. and others reported in 2010(2) SCC 114.

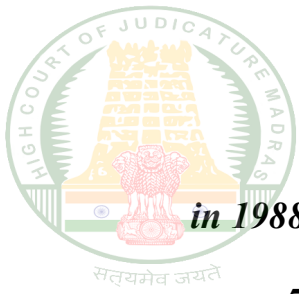
2. Roop Singh Negi vs. Punjab National Bank in SLP No.14429 of 2007.

3. D.P. Maheswari vs. Delhi Administration and others reported in 1983(4) SCC 949.

4. Management of Hindustan Motors vs. Lakshmiah reported in (2002) II LLJ 134.

5. Manju Sexana vs. HSBC Bank in SLP (Civil) Nos.30205-30206 of 2017.

6. National Engineering Industries vs. Shri Krishna Algeria reported



W.P. No.1849 of 2022

in 1988 SCR (1) 985.

WEB COPY

7. Arkal Govind Raj vs. Ciba Geigy of India Limited reported in 1985(3) SCC 371.

8. Inter Globe Transport vs. Leela Deshpande reported in 1994(2) LLN 559.

5. This Court heard both sides and perused the entire materials available on record.

6. In this case, there is no dispute that the respondent was working under the petitioner Management. According to the petitioner Management, the respondent was working in the Managerial post as an 'Executive Secretary'. Therefore, he will not come under the purview of Section 2(s) of the Industrial Disputes Act. According to the respondent, his nature of work is only clerical and he cannot take any independent decision and he was not working under the Supervisory cadre and the details of job carried out by the respondent was taking dictations, typing, conducting meetings, sending Minutes, compiling management information, getting information from other departmental heads, interacting with them, arranging interviews, keeping files

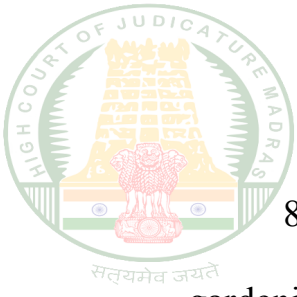


W.P. No.1849 of 2022

and documents, booking flights and rooms, meeting with dealers, consultants and suppliers on behalf of his superiors. Therefore, he is coming under the definition of 'workman' under Section 2(s) of the Industrial Disputes Act.

7. Before the Labour Court, both the parties examined the witnesses and marked documents. On the side of workman, WW1 was examined and Ex.W1 to Ex.W.70 were marked. On the side of management, MW1 and MW2 were examined and Ex.M.1 to Ex.M.15 were marked. The Labour Court, after considering the evidences adduced on either side, came to a conclusion that the respondent was arranging meetings, arranging transports, booking hotels, monitoring the house keeping, gardening and canteen. Therefore, these types of works cannot be construed as an administrative functions or managerial functions. The learned counsel appearing for the petitioner brought to the knowledge of this Court that the Labour court was under the wrong impression that the respondent was doing house keeping, gardening and canteen works. This Court also perused the order of the Labour Court. The Labour Court, in fact, in para no.7(iv), held as follows:-

"(iv) From the above evidence, it is clear that the supervisory, administrative or managerial functions discharged by the petitioner were only in arranging meetings, arranging transports, booking hotels, house keeping, gardening, canteen. Hence these kinds of cleaning and gardening works and meeting arrangement works cannot be construed to be an administrative functions or managerial function".



W.P. No.1849 of 2022

8. Merely by omitting the words 'monitoring the house keeping, gardening and canteen' in the order, it cannot be termed as the Labour Court came to a conclusion that the respondent was doing house keeping, gardening and canteen. In the previous lines, the Labour Court categorically stated that the supervisory, administrative or managerial functions discharged by the petitioner were only arranging meetings, arranging house keeping, gardening and canteen. These kinds of cleaning and gardening works and meeting arrangement works cannot be construed to be administrative functions or managerial functions. Therefore the order of the Labour Court reveals that the respondent was arranging for meetings and supervising the gardening and cleaning etc., That cannot be a ground to set aside the order of the Labour Court.

9. The Labour Court after recording the reasons came to a conclusion that the respondent cannot be termed as a 'managerial Staff' doing supervisory and administrative works and he is only a 'workman' comes under the purview of Section 2(s) of the Industrial Disputes Act. The respondent herein, was examined as WW1 before the Labour Court and he categorically deposed about his nature of work and one Mr. V. Krishnakumar and Mr. Chandramouli were examined on the side of the petitioner Management and



W.P. No.1849 of 2022

they also deposed about the nature of work done by the respondent.

According to them, the respondent was doing supervisory work. But according to the respondent, he worked as an 'Executive Secretary' to the Chief Operating Officer. His duty was to arrange meetings and he will assist the Committee activities in the office area. Likewise, in factory house keeping, gardening, running of canteen and for scrap yard also, he was assisting in getting any amenities from the management for the works they were involved. Therefore, the Labour Court came to a conclusion based on the evidences adduced on both sides.

10. The learned counsel appearing for the petitioner would submit that since the respondent was doing administrative and supervisory work, he will not come under the purview of Section 2(s) of the Industrial Disputes Act. In support of his contention, he relied upon the judgments of Hon'ble Supreme Court in "***A) Management, Murugalli Estate, Hardypel Post vs. Industrial Tribunal, Madras and others reported in (1964) II LLJ 164 Mad and B) S.K. Maini vs. M/s. Carona Sahu Company Limited and others reported in (1994) 3 SCC 510***". On a careful perusal of the above said judgments, it is clear that the supervisory or managerial or administrative functions of a person are his main duties and his professional work is only secondary, he will not be a workman. If the employee did some duties like maintaining



W.P. No.1849 of 2022

accounts, filing certain pro form, they are clerical in nature, but if the major job of the concerned employee was administrative or managerial, then he will not come under the purview of Section 2(s) of the Industrial Disputes Act.

11. The respondent has also relied upon the judgments of Hon'ble Supreme Court and Hon'ble Division Bench of this Court in A) ***D.P. Maheswari vs. Delhi Administration and others reported in 1983(4) SCC 949***, B) ***Management of Hindustan Motors vs. Lakshmiah reported in (2002) II LLJ 134***, C) ***Manju Sexana vs. HSBC Bank in SLP (Civil) Nos.30205-30206 of 2017***, D) ***National Engineering Industries vs. Shri Krishna Algeria reported in 1988 SCR (1) 985***, E) ***Arkal Govind Raj vs. Ciba Geigy of India Limited reported in 1985(3) SCC 371*** and F) ***Inter Globe Transport vs. Leela Deshpande reported in 1994(2) LLN 559***.

12. On a careful perusal of the above judgments, it is clear that the Accounts Officer, Graduation Analyst, Assistant Production Manager, Senior Confidential Secretary, Internal Auditor, Stenographer-cum-Accountant, Regional Sales Manager are coming under the definition of 'workman' by considering their nature of work. In the case on hand, according to the respondent, the nature of job carried out by the respondent was taking



W.P. No.1849 of 2022

dictations, typing, conducting meetings, sending Minutes, compiling management information, getting information from other departmental heads, interacting with them, arranging interviews, keeping files and documents, booking flights and rooms, meeting with dealers, consultants and suppliers on behalf of his superiors. Therefore, he was doing the work of Stenographer-cum-accountant and he was also supervising the house keeping, gardening and canteen works. Therefore, as per the above judgments, the respondent will come under the purview of definition of 'workman' under Section 2(s) of the Industrial Disputes Act. Therefore, the Labour Court has passed a reasoned order and came to a fair conclusion that the respondent is a 'workman' and the same does not requires any interference.

13. As far as the domestic enquiry is concerned, the respondent himself admitted that he had participated in the domestic enquiry and the Labour Court rendered findings that the domestic enquiry was not conducted properly and the charges framed against the respondent were not proved. According to the petitioner, they examined competent witnesses before the Labour Court and they categorically deposed about the delinquency of the respondent, but the Labour Court failed to consider the same. According to the respondent, the charges against the respondent were not proved and no sufficient



W.P. No.1849 of 2022

opportunity was given to him and without examining the material witnesses namely Mr. Hari, Mr. Subramanian and M/s. Naveen Tours (P) Limited, the charges cannot be proved.

14. In this context, the Labour Court also after elaborate discussions and after analysing evidences adduced on either side, came to a fair conclusion that the charges against the respondent were not proved. The Management failed to examine the necessary and relevant witnesses such as Mr. Hari and Mr. Subramanian and without examining them, they conducted the case and therefore, they failed to prove the charges levelled against the respondent. This Court also perused the records and it is seen that the petitioner Management failed to examine the material witnesses, thereby, the charges levelled against the respondent were not proved.

15. In this context, the learned counsel appearing for the petitioner Management has relied upon the judgments in A) ***D.K. Yadav vs. J.M.A. Industries Ltd., reported in (1993) II LLJ 696***, B) ***Union of India (UOI) vs. T.R. Varma reported in (1958) II LLJ 259 SC***, C) ***State of Mysore vs. S.S. Makapur reported in (1964) I LLJ 24 SC*** and D) ***Workmen of Balmadies Estates vs. Management Balmadies Estate and others reported in (2008) 4***



SCC 517.

WEB COPY



W.P. No.1849 of 2022

On a careful perusal of the above judgments, it is clear that the cardinal point that has to be born in mind, in every case, is whether the person concerned should have a reasonable opportunity of presenting his case and the authority should act fairly, justly, reasonably and impartially and it is not so much to act judicially but is to act fairly, namely, the procedure adopted must be just, fair and reasonable in the particular circumstances of the case and a party should have the opportunity of adducing all relevant evidence on which he relies, that the evidence of the opponent should be taken in his presence and if these rules are satisfied, the enquiry is not open to attack on the ground that the procedure laid down in the Evidence Act was not strictly followed. Further it is clear that in a domestic enquiry, guilt may not be established beyond reasonable doubts and the proof of misconduct would be sufficient.

16. On the side of the respondent, he has relied upon the following judgments:

(i) Chairman & MD of Hindustan Teleprinters Ltd., vs. M. Rajan Isaac in W.A. No.2762 of 2004.

(ii) Roop Singh Negi vs. Punjab National Bank in SLP 14429 of



W.P. No.1849 of 2022

WEB COPY

(iii) R.K. Solanki vs. Central Bank of India in W.A. No.780 of 2016.

(iv) Workmen of Balamadies Estates vs. Management Balmadies Estate and others reported in 2009(2) CTC 746.

(v) Shiv Datta Sharma vs. State of Punjab and others reported in AIR 1962 ph 355.

(vi) Anil Kumar vs. Presiding Officer and others reported in AIR 1985 SC 1121.

(vii) Govindaswamy vs. Tamil Nadu Civil Supplies reported in (1998) 2 MLJ 323.

(viii) Central Bank of India vs Karunamoy Banerjee reported in (1968) 1 SCR 251.

(ix) Chittaranjan Choudhury vs. State of Bihar reported in (1987) 2 SCC 104.

On a careful perusal of the above judgments, it is clear that whenever an Enquiry Officer finds the Management appointing legally trained persons Presenting-cum-Prosecuting Officers, Enquiry Officer must enquire from the delinquent employee before commencement of enquiry whether the workman would like to take assistance of a legal practitioners and the contents of the



W.P. No.1849 of 2022

documents are to be proved by way of examining the witnesses and they are to be cross examined. A disciplinary proceeding is not a criminal trial and the standard of proof required is that of preponderance of probability and not proof beyond reasonable doubt and the Evidence Act is not applicable. Further it is clear that refusing summon to crucial witnesses despite the request made by the party, exhibits the bias of the enquiry officer and when a disciplinary enquiry affects the livelihood, the minimum expectation is that the enquiry report must be a reasoned one. In the case on hand, though witnesses were examined by the Management, they failed to examine the material witnesses, therefore, the judgments relied on by the petitioner's counsel are no way helpful to decide the case in favour of the petitioner. In view of the judgments relied on by the respondent and when the Management failed to examine material witnesses, it is unsafe to hold that the charges against the respondent were proved.

17. Since the petitioner Management failed to examine the material witnesses, they failed to prove the charges levelled against the respondent. Therefore, the Labour Court has passed a reasoned order and fairly came to a conclusion. However, the Labour Court passed an order by way of reinstating the respondent into service with full backwages together with all other



W.P. No.1849 of 2022

attendant benefits. Considering the strained relationship between the parties and the allegations levelled against the respondent and to maintain peace between the employer and the employee, it is appropriate to award some compensation instead of reinstatement.

18. In this case, during the pendency of petition, the petitioner Management has paid 17(B) wages to the respondent and he was also regularly receiving the said payment. Therefore, considering the length of service and the nature of work done by the respondent, it is appropriate to award compensation of Rs.20 lakhs (Rupees Twenty Lakhs only) to the respondent. Therefore, the petitioner Management is directed to pay a sum of **Rs.20 lakhs (Rupees Twenty Lakhs only)** to the respondent towards compensation in lieu of reinstatement.

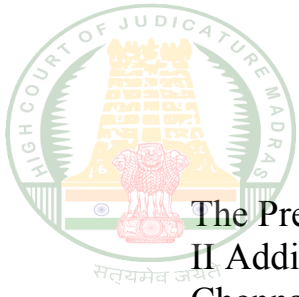
19. With the above said directions and modifications, the Writ petition is *partly allowed. Consequently, the connected miscellaneous petitions are closed.*

26.08.2025

Index : Yes/No
Speaking order/non-speaking order
mjs

To

22/23



WEB COPY

The Presiding Officer,
II Additional Labour Court,
Chennai.



W.P. No.1849 of 2022

P.DHANABAL, J.,

mjs

W.P. No.1849 of 2022

26.08.2025