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W.P.Nos.1521 and 1525 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2025

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.1521 and 1525 of 2023

And

**W.M.P.Nos.1605, 1607, 9434, 9436, 9437, 9439 of 2023
and 10385 of 2024**

Kamaz Motors Limited
No.7, SIPCOT Industrial Complex, Phase-1
Hosur – 635 126.
Represented by its
Asst. General Manager ... Petitioner in both the W.Ps.

Vs.

T.Senthil Kumar ... Respondent in W.P.1521/2023

S.Murali ... Respondent in W.P.1525/2023

Common Prayer:

Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records connected with Approval Petition Nos.2/2019 and 1/2019 respectively on the file of the Labour Court, Hosur herein and to quash the order dated 16.09.2022 made herein.

For Petitioner : Mr.Sanjay Mohan
for M/s.S.Ramasubramaniam and Associates

For Respondents : Mr.Balan Haridass



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COMMON ORDER

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The writ petitions have been filed seeking issuance of Writ of Certiorari to call for the records connected with Approval Petition Nos.2/2019 and 1/2019 respectively on the file of the Labour Court, Hosur and to quash the order dated 16.09.2022.

2.Since the issue involved in these writ petitions are interrelated, they are heard together and disposed of by way of a common order.

3.The facts of the case in brief is that the respondents were employed as operator with the petitioner Management and their last drawn wages is Rs.22,056/- per month and Rs.21,392/- per month respectively. During the course of their employment, the respondents as office bearers of Kamaz Vectra Motors Union were interfering and supporting the subject matter of fifteen employees of VAEPL, Bangalore factory and illegally barged inside the factory premises along with fifteen employees of VAEPL on 06.01.2012 and on 11.01.2012 evening and prevented the movement of persons and movement of vehicles to the customers place on that day. For their misconduct, show cause notice cum suspension order dated 12.01.2012 was issued to them and after enquiry, vide order dated



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19.09.2013, they were dismissed from service. Thereafter, the petitioner Management filed approval petition before the Labour Court under Section 33(2)(b) of the Industrial Disputes Act and the Labour Court dismissed the approval petitions. Hence, these writ petitions.

4.The learned counsel appearing for the petitioner submitted that the Labour Court has to consider the approval petition in terms of Section 33(2)(b) of the Industrial Disputes Act and while deciding the approval petition, the Labour Court has to consider whether enquiry was conducted after following due process of law and in terms of the decision of the Hon'ble Apex Court reported in AIR 1978 SC 1004 (Lalla Ram Vs. DCM chemical Works) and find out whether *prima facie* evidence is available for issuing the order of dismissal and whether one month salary was paid or not. In the present case, the Labour Court decided the approval petitions as if the petitions were filed under Section 2 (A) (2) of the Industrial Disputes Act and dismissed the approval petitions which is not sustainable.

5.The learned counsel appearing for the respondents fairly submitted that this Court may set aside the impugned orders and



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permit the respondents to raise industrial dispute under Section 2(A)(2) of the Industrial Disputes Act, since the workmen have fair chance to succeed in the case before the Labour Court.

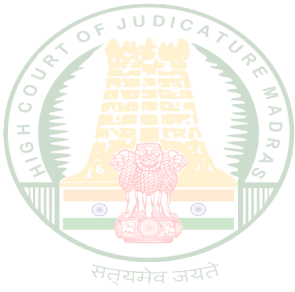
6. Heard the arguments advanced on either side and perused the materials available on record.

7. It is the settled fact that the approval petition has to be decided based on the law laid down by the Hon'ble Apex Court in the case of **Lalla Ram Vs. Management of D.C.M. Chemicals Works Ltd. & Ors.** reported in **AIR 1978 SC 1004**, wherein the Apex Court Held as under:-

"(i) whether a proper domestic enquiry in accordance with the relevant rules/Standing Orders and principles of natural justice has been held;

(ii) whether a prima facie case for dismissal based on legal evidence adduced before the domestic tribunal is made out;

(iii) whether the employer had come to a bona fide conclusion that the employee was guilty and the dismissal did not amount to



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unfair labour practice and was not intended to victimise the employee;

(iv) whether the employer has paid or offered to pay Wages for one month to the employee; and

(v) whether the employer has simultaneously or within such reasonably short time as to form part of the same transaction applied to the authority before which the main industrial dispute is pending for approval of the action taken by him."

8.The touchstone on which the approval petitions have to be dealt with are spelt out in the aforesaid decision and so long as the enquiry has been held in a fair and proper manner and there is no quarrel with regard to the conduct of the enquiry, then the Labour Court cannot interfere with the approval petitions and if at all the workmen are dissatisfied, the proper course open to them is to raise an industrial dispute in the manner known to law.

9.Though the above position of law is postulated in the aforesaid decision, however, learned counsel appearing for the respondents



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submit that this Court may set aside the impugned orders and permit the workmen to raise an industrial dispute. In view of the said stand taken by the respondents, this Court without expressing any opinion on the merits of the case, set aside the orders dated 16.09.2022 passed by the Labour Court, Hosur, in Approval Petition Nos.2/2019 and 1/2019 respectively.

10.The writ petitions are accordingly allowed. Liberty is granted to the respondents to raise industrial dispute under Section 2 (A) (2) of the Industrial Disputes Act. If any such industrial disputes are raised by the respondents, upon reference, the Labour Court shall decide the industrial disputes, without being influenced by any of the observations made in this order as well as in the orders impugned in these writ petitions. No costs. Consequently, connected miscellaneous petitions are closed.

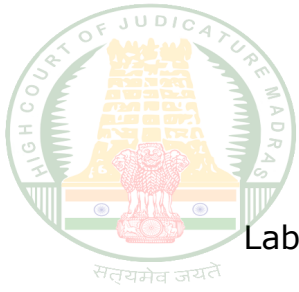
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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To
1.The Presiding Officer,

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Labour Court, Hosur.

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M.DHANDAPANI,J.
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