



WP No. 1013 of 2014



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 11-03-2025

CORAM

THE HONOURABLE MR JUSTICE M.DHANDAPANI

WP No. 1013 of 2014

and

WMP Nos. 35356 of 2016 & M.P.Nos.1 of 2014 & 1 of 2015 & 2 of 2015

The Management Of M/s.Inkor
Autotech India Pvt. Ltd, S.No.71/2B,
3B, 4B, Irrungattukottai Village, NH-4,
Sriperumbudur, Kancheepuram
District-602 105.

Petitioner(s)

Vs

1. The Presiding Officer,
Industrial Tribunal, Tamil Nadu,
Chennai-104.

2. Workmen of Inkor Autotech India (P) Ltd.,
Rep. by United Labour Federation,
(Regn.No.2657 /CNI)
Through its President Mr.V.Paramasivam,
S.No.71/2B, 3B, 4B, Irrugattukottai Village
NH-4, Sriperumbudur, Kancheepuram
District-602 105.

Respondent(s)



PRAYER

This writ petition has been filed seeking for issuance of a writ of Certiorari calling for the entire records pertaining to the impugned award dated 3.10.2013 passed in I.D. No.11 of 2010 on the file of the 1st respondent and quash the same

For Petitioner(s): Mr. Ar. L. Sunderesan, Sr.
Counsel for M/s.S..Mohan,

For Respondent(s): M/s. K. Sudalaikannu For R2
R1-Tribunal

ORDER

This writ petition has been filed seeking to quash the the impugned award dated 3.10.2013 passed in I.D. No.11 of 2010 on the file of the 1st respondent.

2. This Court vide order dated 26.02.2025 allowed the miscellaneous petition in WMP.No.7271 of 2025 wherein the management has sought to set aside the order of the dismissal dated 03.03.2015 passed in above writ petition, however, prior to the said order, W.M.P.No.35356 of 2016 has been filed seeking the very same relief. In view of the order passed in W.M.P.No.7271 of 2025 dated 26.02.2025, no further orders is necessary in W.M.P.No.35356 of 2016, accordingly the same is closed.



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3. It is the case of the petitioner company that it has been in operation since 1998 and is engaged in the fabrication work for industrial establishment while due to global recession the company though suffered financial loss however for the benefit of the workers had continued to run the company. The workers due to certain ill advice had refrained from attending work and had made unjustifiable demands against the company, including going on illegal strike thus preventing the company from doing any activity. Therefore, the petitioner company issued lockout notice on 07.09.2009 and the company was locked out on 17.09.2009 after following rules and guidelines enumerated under the labour laws. Against the said lockout, the workman preferred a dispute in ID.No.11 of 2010 raising three reliefs which was referred to the tribunal in which the management filed a miscellaneous application since the same was not taken up, WP.No. 26308 of 2013 was filed in which this court directed the tribunal to proceed with the matter which will be subject to the outcome of the writ petition. Thereafter the tribunal took up the miscellaneous application as well as the industrial dispute and while the miscellaneous petition was dismissed, the industrial dispute was allowed vide order dated 03.10.2013



against which the present writ petition has been filed.

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4. The learned counsel appearing for the petitioner submits that the tribunal failed to consider the provisions of section 25(O) of the Industrial Disputes Act, 1947 (in short 'the Act') in a proper perspective which vitiates the order of the tribunal. It is further the submission of the learned counsel that the petitioner company would not come under the purview of section 25(O) of the act. Therefore, there is no necessity for issuing closure notice providing 90 days period for closing the establishment. It is further the submission of the learned counsel for the petitioner that the Labour Court without properly appreciating the materials placed before it had granted the relief sought for by the workman which is grossly erroneous. It is the further submission of the learned counsel that the demand for increase in wages by the workman which was allowed by the tribunal is not based on any proper appreciation of material and the said demand being highly excessive, the tribunal ought not to have granted the said relief as it would affect the financial status of the petitioner company. However without considering the same, the tribunal granted the said relief which is



arbitrary and illegal and the same deserves to be set aside.

WEB COPY 5. Per contra learned counsel appearing for the respondent submitted that the tribunal after properly appreciating all the materials and in view of the fact that there was no contra evidence submitted by the petitioner to substantiate that the lockout was on account of the workman, the tribunal had declined the lockout as illegal. Relying on Ex.W.13 learned counsel submits that the petitioner was even ready to revoke the lockout on the workman submitting individual assurance in writing which was also given by the workman wide exhibit W.17. This shows that the lockout was not on account of the workman and therefore the workmen are entitled to wages for the said period of lockout. Learned counsel for the workmen further submitted that the reduction of wages by 50% proposed by the petitioner alleging revenue loss on account of global recession has not been properly substantiated by the petitioner which prevailed upon the tribunal to hold the issue against the petitioner which is also based on record and therefore no interference is warranted with the said finding. In so far as the demand raised by the workers for increase of their basic pay by Rs.5000/- with effect from 01.04.2009, the learned counsel submits that at that particular



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point of time, the basic pay of similarly placed workman across the factories was more than Rs.15,000/- and in the absence of any wage negotiation over the past three years between the petitioner and the workman and no enhancement in basic pay having been granted, the tribunal had granted increase which cannot be said to be exorbitant. Therefore, it is submitted that no interference is warranted in the award passed by the tribunal.

6. This court gave its careful consideration on the materials available on record.

7. Three issues were raised before the tribunal namely (i) relating to reduction of 50% wages on account of global recession proposed by the management (ii) lockout declared by the management and (iii) increase in basic pay of Rs.5000/- from 01.04.2009. All this have been affirmatively considered in favour of the workmen which is put in issue before this court.

8. A perusal of the materials available on record reveals that on the side of the workman WW.1 was examined. From exhibit W.7 which was filed on behalf of the workman, it shows that the petitioner propose to reduce wages by 50%



from what was paid earlier to the workman sighting economic crisis, global recession and other factors which prevents the petitioner from paying the said amount.

9. The evidence of WW.1 has not been counted by the petitioner and to support that plea of economic crisis and global recession, no materials have been filed to speak about the weak economic scenario of the petitioner. Such being the case the tribunal held that there was no reason for the petitioner to propose reduction of 50% of the wages earned by the workman. The said finding arrived at by the tribunal in the absence of any contra evidence placed by the petitioner does not deserve any interference as it is based on proper materials and sound reason. In so far as the declaration of lockout is concerned, WW1 alone has given evidence and his evidence has not been challenged by the petitioner. Exhibit W.16 is the letter by the petitioner dated 17.09.2009 calling upon the workman to give individual assurance in writing so as to enable the petitioner to lift the lockout and the workman by letter dated 28.12.2009 namely Ex.W 17 have expressed their willingness to work and requested the management to lift the lockout. There is no evidence placed by the petitioner to



show that the lockout was on account of the acts of the workman. In the absence of any such material the tribunal has properly considered the issue and held that the lockout was not justified and it accordingly held that the workmen were entitled for wages for the said period.

10. The said finding also does not warrant any interference. So far as the finding of the tribunal with regard to increase of basic pay of the workmen by Rs.5000/- with effect from 01.04.2009 is concerned, though it has been pleaded by the respondent that over the past three years ie., 2007 to 2009, the wages have not been increased during which time, the workmen working in other factory were paid basic pay of more than Rs.15,000/-. However the wage slip pertaining to November 2007 namely exhibit W.19, has been placed by WW1 to show his wage during November 2007. However, there is no corresponding material of the workmen of other factories who have claimed to have received more than basic pay to the tune of Rs.15,000/- as claimed by the workman. In the absence of any substantive material to show that the workmen in other factories were paid such higher sums as basic pay, the tribunal has erroneously granted the benefit of increase of basic pay of workman by Rs.5000/- from the



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date of award by reasoning that the cost of living was high and the prices of the essential commodities were also spiralling high. The Tribunal was not required to import its view of the economic conditions but ought to have based its reasoning on the basis of materials.

11. In the absence of any materials to substantiate that the workmen of other factories were being paid for higher basic pay than the workman. The grant of Rs.5000/-, increase in the basic pay of the workman from 01.04.2009 is not based on proper materials and reasoning and therefore the award to that extent requires to be set aside. Accordingly, while this court approves the award of the labour Court in so far as the first two issues are concerned, however sets aside the award in so far as grant of increase in the basic pay by Rs.5000/- from the date of the award. Writ petition is partly allowed with the aforesaid observation. No costs. Consequently, connected miscellaneous petitions are closed.

11-03-2025

RAP

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No



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The Presiding Officer,
Industrial Tribunal, Tamil Nadu,
Chennai-104.



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M.DHANDAPANI J.

RAP

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