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W.P.Nos.14438 of 2015 and 25736 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.04.2025

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.14438 of 2015 and 25736 of 2016

And

M.P.No.1 of 2015 and W.M.P.Nos.4952 and 4953 of 2016

The Management of,
M/s.Gujarat Co-operative Milk Marketing
Federation Limited,
Rep. by its General Manager (Sales)
New 104, G N Chetty Road,
T Nagar,
Chennai – 600 017.

... Petitioner in W.P.14438/2015

K.Anantharaman

... Petitioner in W.P.25736/2016

Vs.

1.The Presiding Officer,
I Additional Labour Court,
(FAC-III Additional Labour Court)
Chennai 104.

2.K.Anantharaman

... Respondents in W.P.14438/2015

1.The Management of
M/s.Gujarat Co-operative Milk
Marketing Federation Limited,
rep. by its Managing Director,
New No.104, G.N.Chetty Road,
T.Nagar,
Chennai – 600 017.



W.P.Nos.14438 of 2015 and 25736 of 2016

WEB COPY

2.The Presiding Officer/ District Judge,
III Additional Labour Court,
[Third Additional Labour Court (FAC)],
Chennai – 600 104. ... Respondents in W.P.25736/2016

Prayer in W.P.No.14438 of 2015:

Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the first respondent in I.D.No.662 of 2003 and quash its award dated 11.02.2015.

Prayer in W.P.No.25736 of 2016:

Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned Award I.D.No.662/2003 and dated 11.02.2015 of the second respondent herein and quash the said award in so far as it relates to the directions of reinstatement of the petitioner herein and denial of balance 50% of back wages and consequently direct the first respondent herein to pay the petitioner herein full back wages from the date of his dismissal from service, viz., 08.06.1990 till 17.11.2014 which was the date when the petitioner herein would have retired from service with all other attendant benefits within a time limit to be fixed by this Hon'ble Court.



W.P.Nos.14438 of 2015 and 25736 of 2016

WEB COPY

For Petitioners : Mr.P.Raghunathan
for M/s.T.S.Gopalan and Co.
in W.P.14438 of 2015

Mr.A.R.Gokulnath
in W.P.25736 of 2016

For Respondents : R1 – Court
Mr.A.R.Gokulnath for R2
in W.P.14438 of 2015

Mr.P.Raghunathan for R1
for M/s.T.S.Gopalan and Co.
R2 – Court
in W.P.25736 of 2016

COMMON ORDER

The writ petitions have been filed seeking to quash the order passed by the Presiding Officer, I – Additional Labour Court, III – Additional Labour Court, (FAC), Chennai – 104 in I.D.No.662 of 2003 dated 11.02.2015.

2.Since the issue involved in these writ petitions are interrelated, they are heard together and disposed of by way of a common order. For brevity, the petitioner in W.P.No.25736 of 2016 and the second respondent in W.P.No.14438 of 2015 would be hereinafter referred to as 'Workman' and the petitioner in W.P.No.14438 of 2015 and the first



W.P.Nos.14438 of 2015 and 25736 of 2016

WEB COPY

respondent in W.P.No.25736 of 2016 would be hereinafter referred to as 'Management'.

3.The brief facts of the case is that the Workman joined the service of the petitioner as Field Sales Representative in the Madras Branch Office with effect from 26.03.1979 and for mis-conduct, he was issued with charge sheet dated 09.08.1989 and after enquiry, he was dismissed from service on 08.06.1990. Thereafter, the Workman raised industrial dispute under Section 2-A(2) of the Industrial Disputes Act and the Labour Court passed the impugned order directing the Management to reinstate the Workman into service with continuity of service, 50% backwages and all attendant benefits. Aggrieved by the same, these writ petitions have been filed.

4.The learned counsel appearing for the Management submitted that the Management is a Co-operative Society registered in Gujarat and is engaged in the marketing of its milk and other products under the brand name of AMUL and it has a branch office at Chennai and the Workman was working as a Field Sales Representative and the Field Sales Representative is primarily required to accompany the van of



W.P.Nos.14438 of 2015 and 25736 of 2016

WEB COPY

wholesale distributor and his salesman, visit retail market, detail the products, book orders from retailers and pass it on to the wholesaler to execute the same and he was employed only for sales promotion of the products of the Management and since the Workman was involved in mis-conduct, for which, disciplinary proceedings was initiated against the Workman and it ended in dismissal and as against the dismissal from service. The learned counsel further submitted that the Workman is a sale promotee which is managerial capacity and not a 'workman' within the meaning of Section 2(S) of the Industrial Disputes Act and further submitted that the Workman reached the age of superannuation during the year 2014 and without considering the above aspects, the Labour Court passed the impugned award dated 11.02.2015, which is not sustainable one.

5.The learned counsel appearing for the Workman submitted that the Workman comes under the purview of Section 25 of the Industrial Disputes Act and the same was appreciated by the Labour Court and the Labour Court after elaborately considering the exhibits marked on either side, ordered for reinstatement, however, the Labour Court awarded only 50% backwages and further submitted that the



W.P.Nos.14438 of 2015 and 25736 of 2016

Management has sufficient means to pay backwages and hence denying 50% backwages is not sustainable one.

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

7.Admittedly, the Workmen entered the service of the Management during the year 1979 and for mis-conduct, he was issued with charge sheet dated 09.08.1989 and after enquiry, he was dismissed from service on 08.06.1990. Though for the alleged mis-conduct, order of dismissal is highly dis-proportionate, the Workman reached the age of superannuation during the year 2014, however, the Labour Court passed the impugned award during the year 2015, which is not sustainable one.

8.Inorder to strike the balance and considering the service rendered by the Workman to the Management, this Court is of the opinion that a sum of Rs.7 Lakhs would be a justifiable compensation to the Workman.

9.The Management/ petitioner in W.P.No.14438 of 2015/ first



W.P.Nos.14438 of 2015 and 25736 of 2016

respondent in W.P.No.25736 of 2016 is directed to pay a sum of Rs.7,00,000/- (Rupees Seven Lakhs Only) in full quit to the Workman/ petitioner in W.P.No.25736 of 2016/ second respondent in W.P.No.14438 of 2015, within a period of eight weeks from the date of receipt of a copy of this order, failing which, the Management would be liable to pay interest at the rate of 7.5% p.a., from the date of writ petition in W.P.No.14438 of 2015 till the date of actual payment.

10.The writ petitions are disposed of in the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

07.04.2025

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

To

1.The Presiding Officer,
I Additional Labour Court,
(FAC-III Additional Labour Court)
Chennai 104.



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W.P.Nos.14438 of 2015 and 25736 of 2016

M.DHANDAPANI,J.
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W.P.Nos.14438 of 2015 and 25736 of 2016