



W.P.No.13118 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2025

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.13118 of 2009

and

M.P.Nos.1, 2 & 3 of 2009

Pradeep Stainless India Pvt. Ltd.,
C-3, Phase II, MEPZ-SEZ,
Tambaram,
Chennai – 600 045,
Rep. by its Chairman,
Mr.B.Ramesh Chand

... Petitioner

Vs.

1.The Joint Commissioner of Labour,
Labour Welfare Board Buildings,
6th Floor, DMS Complex,
Teynampet,
Chennai – 600 006.

2.Chennai Yetrumathi Valagha
Uzhiyargal Matrum Pothu Thozhilargal Sangam,
Old No.11, New No.15,
Kannan Street, Kadaperi,
Chennai – 45,
Rep. By Secretary.

3.P.Baskar

4.Elumalai Mariappa

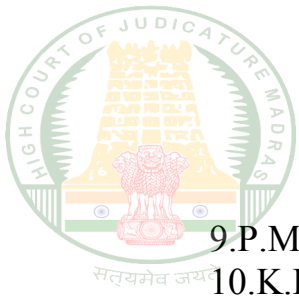
5.J.Ezhilraj

6.J.Guna

7.P.Kumar

8.M.Moorthy

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- 9.P.Muniappan
- 10.K.Parthasarathy
- 11.M.Rajan
- 12.D.Ravi
- 13.M.G.Venkatesan
- 14.D.Arul
- 15.S.Balaraman
- 16.V.Chandrasekar
- 17.M.Jagan
- 18.D.Madhanagopal
- 19.M.Paalayam
- 20.S.Krishnamoorthy
- 21.P.Velu
- 22.E.Purushothaman
- 23.A.Suresh
- 24.M.Hosurappa
- 25.G.Nagarajan
- 26.U.Mohamood Sanaullah
- 27.K.Ramesh
- 28.Palani Murugesan
- 29.S.Thiyagarajan
- 30.S.John Martin
- 31.A.Sekar
- 32.E.Loganathan
- 33.M.Muralidoss
- 34.S.Babu
- 35.M.Manigandan
- 36.K.Kalpana
- 37.K.Vasanthi
- 38.M.Valli
- 39.M.Malliga

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records pertaining to the Approval Petition Nos.1, 3, 4, 5, 6, 8, 9, 10, 11, 12, 14, 15, 16, 17, 19, 20, 21, 23, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 38, 39, 40, 41, 42, 43, 44 of 2008 preferred by the Petitioner against the Respondent



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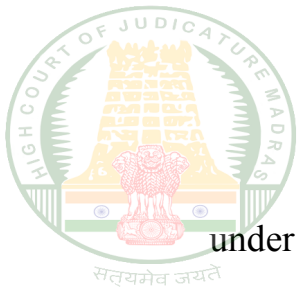
workmen 3 to 39 respectively and quash the order dated 12.06.2009 passed by the 1st Respondent dismissing the above said Approval Petitions and further direct the 1st Respondent to grant Approval for the Dismissal orders dated 25.01.2008 passed by the Petitioner against the Respondents 3 to 39.

For Petitioner : Mr.S.Ravindran
Senior Counsel
For M/s.K.V.Shanmuganathan
For Respondents : Mr.M.Murali
Government Advocate [R1]
Mr.V.Ajoy Khose [R2 to R39]

ORDER

This Writ Petition has been filed seeking for a Writ of Certiorari, to call for the records pertaining to the Approval Petition Nos.1, 3, 4, 5, 6, 8, 9, 10, 11, 12, 14, 15, 16, 17, 19, 20, 21, 23, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 38, 39, 40, 41, 42, 43, 44 of 2008 preferred by the Petitioner against the Respondent workmen 3 to 39 respectively and quash the order dated 12.06.2009 passed by the 1st Respondent dismissing the above said Approval Petitions and further direct the 1st respondent to grant Approval for the Dismissal orders dated 25.01.2008 passed by the Petitioner against the Respondents 3 to 39.

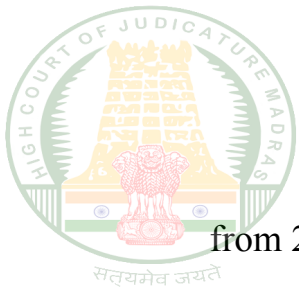
2. The case of the petitioner is that it is a company incorporated



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under the Indian Companies Act, 1956 and it came into existence from 01.04.2004. After coming into existence, the petitioner company took over the industrial unit namely, Pradeep International located at Madras Export Processing Zone (now called as Special Economic Zone), Tambaram, Chennai and has been engaged in manufacturing and exporting of stainless steel utensils, kitchen wares, etc. It employs about 500 workmen to carryout various operations like cutting, pressing, polishing, packing, etc and it also has branches located at Triplicane. Ever since the date of taking over of the factory situated at SEZ-MEPZ, the management of the petitioner company has been maintaining very cordial and harmonious relationship with its work force. Five-man Works Committee elected by the workmen was in place to resolve the issues of the workers and the said Works Committee was later transformed into a recognized Trade Union affiliated to INTUC. Till 2nd week of November, 2007, there was no industrial unrest in the petitioner company. From 16.11.2007 onwards, all the respondent workmen and their allies started indulging in grave misconducts like go-slow, sit in strike, refusal to do overtime work, threatening loyal workmen, etc. in concerted manner. They also instigated and threatened loyal workmen to follow them. Due to their illegal activities, the volume of production drastically came down



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from 2nd week of November, 2007 onwards.

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3. As a direct consequence of the illegal acts perpetrated by the respondent workmen and their allies, the petitioner company not only suffered economically, but also could not meet the export obligations in time. Infact, the respondents 3 to 19 had brazenly indulged in sit-in-strike during the period from 01.12.2007 to 11.12.2007. In the meantime, the 2nd respondent claiming itself to be the representative of respondent workmen issued a strike notice dated 21.11.2007, which the petitioner received only on 23.11.2007, enclosing certain frivolous demands. Based on the illegal strike notice issued by the 2nd respondent, the 1st respondent had initiated conciliation procedures. Even after the conciliation notice was issued, the respondent workmen continued to indulge in several grave misconducts en masse, including refusal to do overtime work, indulging in go-slow work, threatening and abusing loyal workmen. The respondents 3 to 19 indulged in sit-in-strike from 1.12.2007 to 11.12.2007. The management of the petitioner company took photographs of the workmen who were indulging in sit-in-strike thinking that the same would deter them from indulging in such imprudent act. Enraged by the unruffled posture of the management, the respondent



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workmen and their cohorts hatched a conspiracy and launched murderous assault on the Managing Director of the petitioner company on 23.01.2008 and caused grave head injury, which was immediately reported to the law enforcing agency. The law enforcing agency registered a case against the respective workmen who indulged and the petitioner identified 54 persons, who had indulged in such activities, thereby, the petitioner initiated disciplinary proceedings against them and dismissed them from service, without conducting any departmental enquiry on the ground that conducting departmental enquiry is not feasible in view of the atrocious activities done by the respective workmen.

4. Thereafter, they have filed approval petitions in A.P.Nos.1 to 54 of 2008, since the dispense with of departmental enquiry is approved by the Hon'ble Apex Court in the case of ***The Workmen of M/s.Firestone Type and Rubber Co. of India (Pvt.) Ltd. Vs. The Management & Ors.*** reported in ***1973 1 SCC 813***. Even in case of mere non conducting of domestic enquiry, the private respondents can very well exhaust the remedy available u/s 2(A)(2) or 11(A) of the Industrial Disputes Act, 1947 (in short 'ID Act'). In terms of above judgment the process of



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dispensing with the domestic enquiry is permissible, thereby the order of dismissal was passed. After complying with the procedure contemplated by the Hon'ble Apex Court in the case of ***Lalla Ram Vs. Managment of D.C.M. Chemicals Works Ltd. & Ors.*** reported in ***AIR 1978 SC 1004***, the order of dismissal was passed. Immediately, approval petition was filed before the authority. Out of the 54 employees, 7 approval petitions were withdrawn by the petitioner management, since they come forward to go along with the management and out of the remaining employees, in respect of 10 employees, approval was granted and in respect of other employees, approval was rejected. Challenging the same, the above writ petition has been filed.

5. Learned Senior Counsel appearing for the petitioner submitted that during the pendency of this writ petition, out of 37 employees, 15 employees were settled and the remaining employees are 22. In respect of the said 22 employees, rejection of approval is not sustainable on the simple ground that when the labour court itself arrived at a conclusion that there was a huge allegation as against 10 employees, who have assaulted the managing director and other superior officers and granted approval, in respect of other employees, the labour court having seen the



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entire photographs marked by the petitioner management, refusing to grant approval on the ground that no grave misconduct was shown as against the respective employees, is not sustainable. The approval authority has to consider the approval petition on the prima facie case available as against the respective employees, warranting for dismissal of service and other procedures contemplated by the Apex Court in *Lalla Ram's* case are followed or not. In the present case, the petitioner has fulfilled all the requirements of Section 3 of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 and the procedures contemplated by the Apex Court in *Lalla Ram's* case. Hence, the order of rejection passed by the labour court is bad in law. However, learned Senior Counsel submitted that the order of dismissal was passed in the year 2007 and since 18 years have passed, this Court may mould the relief in favour of the management as well as the workmen. Accordingly, he prays for appropriate orders.

6. Per contra, learned counsel appearing for the respondent 2 to 37 submitted that, when no enquiry was conducted by the petitioner Management, the authority has given its finding on the basis of the evidence placed before it and therefore, prays for dismissal of the writ



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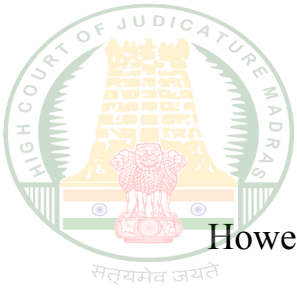
petition.

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7. Heard the learned counsel for the parties and also perused the materials available on records.

8. The issue arises in this writ petition is whether the rejection of approval petition by the authority is in terms of Section 33(2)(b) of the ID Act ?

9. While entertaining the application u/s 33(2)(b) of the ID Act, the authority has to consider whether the guidelines framed by the Hon'ble Apex Court in *Lalla Ram's* case is followed or not. In the present case, there is no allegation as against the petitioner management with regard to following of the procedure, however the authority arrived at a conclusion that no prima facie evidence is available as against the respective employees. However, the very same authority arrived at a conclusion as against 10 employees, as they have indulged in illegal activities by assaulting superior officer. In the present case, other employees are present in the scene of occurrence, thereby criminal case was registered. In such situation, rejecting the approval petition is not sustainable.



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However, setting aside the order of the authority and approve the approval sought for by the petitioner management may not give any relief to the employees after a lapse of 18 years. In order to strike balance in between the parties, this Court is inclined to fix a sum of Rs.4,00,000/- as fair compensation in favour of the respondents.

10. Accordingly, the petitioner management is directed to pay compensation at Rs.4,00,000/- to each to the respondents in full quit. In respect of Provident Fund, which was accrued in the account of the respective employees while they were in service, which was deposited by the petitioner management, there is no legal impediment for the respective respondents/employees to file application before the authority under the Payment of Provident Fund Act within a period of two (2) weeks from the date of receipt of a copy of this order. On receipt of the said application, whatever the amount available in the account of the respective employees may be disbursed in favour of the respective employees, within a period of eight (8) weeks thereafter.



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11. With the above observations and directions, the Writ Petition is

disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation Case : Yes / No

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To

The Joint Commissioner of Labour,
Labour Welfare Board Buildings,
6th Floor, DMS Complex,
Teynampet,
Chennai – 600 006.



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M.DHANDAPANI, J.

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