



W.P.Nos.19285 and 19286 of 2008

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 07.01.2025

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.Nos.19285 and 19286 of 2008

In W.P.No.19285 of 2008:-

1. The Area Sales Manager (S),
Nafed Processed Foods,
Crescent Court, II Floor,
Old No.963, New No.108,
Poonamallee High Road,
Chennai - 600 084.

2. The Managing Director,
NAFED
No.1, Siddharatha Enclave,
Ashram Chowk, Ring Road,
New Delhi - 110 014.

.. Petitioners

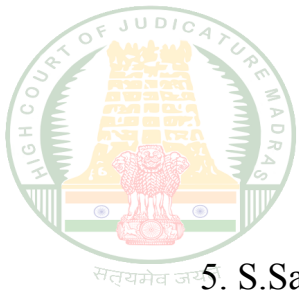
Versus

1. The Presiding Officer,
Labour Court, Vellore.

2. A.Vijaya

3. S.Yesupadam

4. M.Mohan



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5. S.Saraswathi
(Legal Heir of deceased Shanmugam)
6. S.Samarthi
(Legal Heir of deceased Shanmugam)
7. S.Subash Chandra Bose
(Legal Heir deceased Shanmugam)
8. S.Sathish Kumar
(Legal Heir deceased Shanmugam)
9. S.Sasikala
(Legal Heir deceased Shanmugam)
10. S.Santhi
(Legal Heir deceased Shanmugam)
11. S.K.Jawarappa
12. D.Saradha
13. Yasoda
14. Santhi
15. Balaraman

.. Respondents

In W.P.No.19286 of 2008:-

1. The Area Sales Manager (S),
Nafed Processed Foods,
Crescent Court, II Floor,
Old No.963, New No.108,
Poonamallee High Road,
Chennai - 600 084.
2. The Managing Director,
NAFED,
No.1, Siddharatha Enclave,
Ashram Chowk, Ring Road,
New Delhi - 110 014.

.. Petitioners



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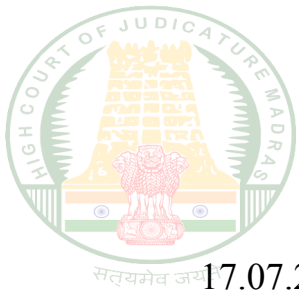
Versus

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1. The Presiding Officer,
Labour Court, Vellore - 4.
2. R.Loganathan
3. N.Venkatesan Mandadi
4. J.Henry
5. G.Usharani
6. G.Haripriya
(Legal Heir of deceased K.Gopinath)
7. G.Vishnupriya
(Legal Heir of deceased K.Gopinath)
8. G.Senthil Nathan
(Legal Heir of deceased K.Gopinath)
9. G.Sashindhranath
(Legal Heir of deceased K.Gopinath)
10. K.Sivakumar
11. K.Thangarajan
12. K.Kasturi
13. S.Ganesan
14. V.Balaraman
15. N.Jayaprakash
16. S.Kajamydeen
17. Mohamed Ayaz
18. M.Ramamurthy
19. V.R.Dayananda

.. Respondents

Prayer in W.P.No.19285 of 2008 : Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari calling for the records of the 1st respondent in relation to the common award, dated



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17.07.2007 passed by the Labour Court, Vellore in Industrial Dispute Nos.14 of 1997 to 20 of 1997, quash the same.

Prayer in W.P.No.19286 of 2008 : Writ Petition filed under Article 226 of the Constitution of India, pleaded to issue a Writ of Certiorari calling for the records of the 1st respondent in relation to the common award, dated 17.07.2007 passed by the Labour Court, Vellore in I.D.Nos.333 of 1995 to 346 of 1995, quash the same.

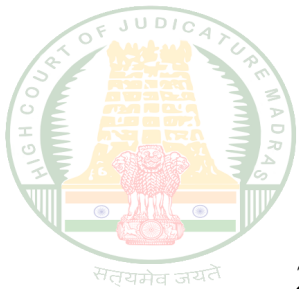
For Petitioner : Mr.D.Vijayakumar
(in both W.Ps)

For Respondents : R1 - Labour Court

: Mr.Rajaram,
for RR-2 to 15
in W.P.No.19285 of 2008
and for RR-2 to 19
in W.P.No.19286 of 2008

COMMON ORDER

These two Writ Petitions are filed challenging the identical awards and as such, are taken up and disposed of by this common judgment.



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2. Heard *Mr.D.Vijayakumar*, learned Counsel for the petitioner management and *Mr.R.Rajaram*, learned Counsel for the respondent workmen.

3. The brief factual background, in which these Writ Petitions arise, is that the petitioner management is a Multi State Co-operative Society. It had various units throughout the country. There is also a provision for transfer, promotion etc., of its cadre from one unit to its other unit throughout the country. While so, in the year 1995, when it thought it fit to close the Vellore unit first, it ordered retrenchment of 29 workmen who were working in the said Vellore unit. Challenging the same, the workmen approached the Labour Court. The Identical Disputes were disposed of by two common orders.

4. The Labour Court took into consideration the Standing Orders and the Regulations of the Co-operative Society and found that when the



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establishment was one and periodically when the employees having been transferred, shifted from one unit to another, when it came for retrenchment, the management ought to have followed the principles of seniority and the principles of last come first go even if there is a necessity to retrench. In that view of the matter, the Labour Court found that the non-employment is unjustified.

5. Further, while considering as to what relief the workmen could be granted, the Labour Court considered the fact that the unit is being closed one after the other with reference to the petitioner management. The Labour Court further considered that when similar unit was sought to be closed in yet another place, there was a negotiation and an option of voluntary retirement was given to all the employees and the benefits were granted. Since the situation was akin to the present situation relating to the workmen, the quantum, akin to the Voluntary Retirement Scheme benefits, was



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directed to be given to the workmen. Aggrieved by the same, the petitioner management filed the present Writ Petitions.

6. Pending the Writ Petitions, 50% of the said benefit, which was granted by the Labour Court, was ordered to be paid to the workmen and the balance of 50% was ordered to be deposited to the credit of the relevant Industrial Disputes and the same is lying to the credit of the Labour Court.

7. *Mr.D.Vijayakumar*, learned Counsel for the management would submit that the Labour Court erred in granting similar benefit because the Voluntary Retirement Scheme was a result of the concerned union negotiating with the management and only pursuant to a settlement, the same was granted. In the instant case, the workmen never came to any settlement. When the unit was to be closed, the workmen had to be retrenched and therefore, when there was a justifiable cause, merely because



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there was a provision for transfer, the Labour Court ought not to have held the transfer itself is unjustifiable.

8. He would also submit that in view of the fact that 50% of the benefit being paid and 50% being deposited, there is also a chance of settlement, but, if only more time is granted, the question of settlement can be worked out between the parties.

9. Per *contra*, *Mr.R.Rajaram*, learned Counsel for the workmen would submit that absolutely, the retrenchment was illegal in this case. The workmen had given details of various transfer orders passed and as to how all the units were treated as one establishment with cross promotions, transfers etc. Therefore, the Labour Court was right in holding that the retrenchment was illegal. He would submit that the action of the management should also be considered where, for closing at one place, it gave the option of voluntary retirement for all the employees and paid them



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the benefit whereas it chose to retrench as far as the Vellore is concerned.

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Therefore, the Labour Court rightly passed the awards.

10. I have considered the rival submissions made on either side and perused the material records of the case.

11. As far as the merits are concerned, it can be seen that the workmen had given the following particulars which were all taken into account by the Labour Court.

- "a) 28.11.1981 is an order transferring M.Ramamurthy from Vellore NPF factory to NPF factory at Karnataka.
- b) 28.5.1983, 8 employees from NPF factory at Khusal Nagar, Karnataka were transferred to NPF factory at Kolkata.
- c) 19.9.1994 is an order transferring J.Henry Mechanical Supervisor, NPF factories at Vellore to NPF Factory at New Delhi.
- d) 27.11.1995 is an order transferring the same J.Henry from NPF Factory at Delhi to NPF Factory at Vellore.
- e) 27.1.1995 is an another transfer order transferring one R.P.Raj Sales representative from NPF Delhi to NPF Hyderabad and one Venkoba Rao from NPF Hyderabad to NPF Vellore.



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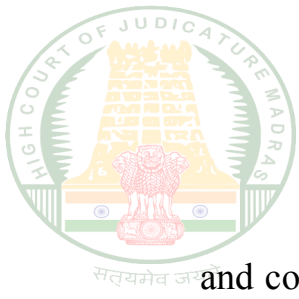


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- f) 27.1.1995 is yet another transfer order transferring one T.Mohankumar from NPF Vellore to NPF Madras and one Mr.Nagoji Rao from NPF Vellore to NPF Madras.
- g) 8.6.1998 is one more transfer order transferring these employees working at NPF Madras to NPF Delhi and NPF Hyderabad.

Thus, it can be seen that when the establishment is treated as one and when the petitioner itself is a Multi State Co-operative Society, then the Labour Court was right in finding that the retrenchment was illegal inasmuch as the last come first go principle was not followed.

12. As far as the relief that was granted to the workmen is concerned, it can be seen that when an identical exercise was carried on, a special scheme of voluntary retirement was floated, in which, the benefits were granted to the workmen. The Labour Court considered the same in detail and took into account the quantum that was granted to the similarly situated workmen and therefore, considering the fact that the unit is being closed one after the other and the situation of the management also, took a balance view



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and considered the interest of the parties and awarded the sum equivalent to the same sum to be present workmen also. No exception whatsoever can be taken to the said approach. As a matter of fact, the awards were passed in the year 2007 and the Writ Petitions are filed in the year 2008. Interim orders were granted and 50% of the sum payable was directed to be paid to the workmen and the management also deposited the balance sum of 50% which is lying to the credit of the respective Industrial Disputes.

13. It is also reported that some of the workmen have also since passed away and their legal heirs are on record. The workmen concerned were all retrenched in the year 1995 and now, we are in the year 2025. Therefore, considering the overall facts and circumstances of the case, I am of the view that the award of the Labour Court does not need any interference. At the same time, when 50% of the amount is already paid to the workmen and the balance 50% is deposited to the credit of the respective Industrial Disputes, the workmen or their legal heirs, as the case may be,



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will be entitled to withdraw the balance 50% of the sum deposited along with accrued interest, if any and no further claim will be made against the management by all these workmen.

14. With the above directions and permitting the workmen to withdraw the sums deposited in the respective Industrial Disputes i.e., I.D.Nos.14 of 1997 to 20 of 1997 and I.D.Nos.333 of 1995 to 346 of 1995, these Writ Petitions are disposed of. It is needless to mention that in any case, even if the legal heirs of the workmen are not brought on record before this Court, upon application of the legal heirs, the Labour Court shall order payment of the amount due to them. There shall be no order as to costs.

07.01.2025

Neutral Citation : no
grs

To

The Presiding Officer,

<https://www.mhc.tn.gov.in/judis>



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Labour Court,
Vellore.



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D.BHARATHA CHAKRAVARTHY, J.

grs

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