



W.P.No.18320 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.18320 of 2009
and
MP.Nos.1 of 2009 & 2 of 2013

The Management,
Karthik Sizing Mill,
Rep. by its Manager,
320, Manickam Palayam,
Veerappan Chattiram, Erode.

...Petitioner

Vs.

1. M.Natesan
2. The Presiding Officer,
Labour Court, Salem.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records comprised in proceedings of the 2nd respondent bearing I.D.No.391 of 1999 dated 03.10.2007 and quash the same.

For Petitioner : Mr.T.T.Ravichandran

For Respondents : Mr.S.Ayyathurai, for R1
: R2 – Court



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ORDER

This Writ petition has been filed seeking quashment of the award of the 2nd respondent in I.D.No.391 of 1999 dated 03.10.2007.

2. The case of the petitioner is that it is engaged in the business of manufacturing and processing of cotton yarn and supply of the same to textiles mills and for the said process, the petitioner employs various part time and contract labourers. The 1st respondent joined the services of the petitioner Mill as a Warper on 21.07.1994 and was paid Rs.65/- per day on piece rate. Whiles, after receiving substantial amount as advance, the 1st respondent abandoned the duty. In such circumstances, alleging that he was orally terminated by the petitioner management, the 1st respondent initiated conciliation proceedings and as the same ended in failure, he raised a dispute in I.D.No.391 of 1999 before the 2nd respondent. The labour court, without considering any of the above said facts, vide its award dated 03.10.2007, ordered for reinstatement of the 1st respondent with continuity of service and along with 30% backwages. Challenging the same, the petitioner Management has come up with this Writ petition.



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3. Heard both sides and perused the materials available on record.

4. It is the major contention of the learned counsel for the petitioner management that no termination order was passed by the management as against the 1st respondent and it is the 1st respondent/workman, who abandoned the duty after receiving advance amount from the petitioner and the labour court, failed to consider the said fact and ordered reinstatement. On the other hand, it is the contended by the learned counsel for the 1st responden/workman that, the petitioner management voluntarily gave an advance amount of Rs.2,200/- to all the workmen in order to deny all the legal benefits to which the workmen are entitled to and the labour court, taking into consideration the said facts, though ordered for reinstatement with continuity of service, however, awarded only 30% backwages instead of full backwages, which has to necessarily be interfered with.

5. The Labour Court, in the impugned order, has also recorded the fact that similarly placed workman like the 1st respondent were paid compensation and the petitioner Management is also ready to employ the 1st



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respondent as casual labour, which would amply prove that the 1st respondent has completed statutory period of service prior to the date of oral termination. That apart, the petitioner Management is also now ready to pay the compensation and end the prolonged strained relationship between the petitioner and 1st respondent.

6. This Court is of the view that merely because similarly situated persons have settled the dispute by receiving the compensation offered by the petitioner, the 1st respondent cannot be expected to receive the compensation and quit the job. It is the employee's wish to decide as to whether they want to continue doing the job or to receive the compensation and drop the proceedings and relieve from his duty.

7. Having heard the learned counsel on either side and having perused the available material particularly the impugned order, this Court is of the view that, the 2nd respondent Labour court, after careful consideration of the material documents placed before it, arrived at a conclusion that the 1st respondent was in continuous employment of 240 days in a calendar year and thereby, held that the 1st respondent is entitled for reinstatement.



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WEB COPY 8. However, as regards backwages, as the 1st respondent has failed to produce any evidence to prove that he was not gainfully employed during the non-employment period, the Labour Court held that the 1st respondent is entitled for only 30% backwages and the said findings of the Labour court cannot be said to be erroneous and thereby, the same is confirmed.

9. For the reasons aforesaid, this Writ petition stands dismissed and the petitioner management is directed to honour the impugned award of the 2nd respondent Labour court within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected Miscellaneous petitions are closed.

21.04.2025
(2/2)

skt

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

To

The Presiding Officer,
Labour Court, Salem.

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2025

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THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

WMP.No.23624 of 2023

in

W.P.No.18320 of 2009

The Management,
Karthik Sizing Mill,
Rep. by its Manager,
320, Manickam Palayam,
Veerappa Chatiram, Erode.

...Petitioner

Vs.

1. M.Natesan
2. The Presiding Officer,
Labour Court, Salem.

...Respondents

Writ Miscellaneous Petition filed seeking to restore the above Writ petition to its file which was dismissed for non-prosecution by an order dated 23.04.2019 and other further proceedings.

For Petitioner : Mr.T.T.Ravichandran

For Respondents : Mr.S.Ayyathurai, for R1
: R2 – Court



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ORDER

WEB COPY This Writ Miscellaneous petition has been filed to restore the above Writ petition in W.P.No.18320 of 2009 which came to be dismissed for non-prosecution on 23.04.2019.

2. Heard learned counsel on either side.

3. Being satisfied with the reasons stated in the affidavit filed in support of this petition, this Court is inclined to order this petition.

4. Accordingly this Writ miscellaneous Petition is ordered as prayed for and the order dated 23.04.2019 made in the above Writ petition is recalled and the Writ petition in W.P.No.18320 of 2009 is restored back to file.

21.04.2025
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To:
The Presiding Officer,
Labour Court,
Salem.



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