



W.P.No.5822 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Special Original Jurisdiction)

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RESERVED ON : 22.04.2025
PRONOUNCED ON : 29.05.2025

PRESENT:

THE HON'BLE DR. JUSTICE A.D. MARIA CLETE

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S.Kandimuthu,
S/o. Late Subbaiya Gounder,
No.70-A, Nesan Illam,
Vivekananda Road,
Goundenkulam, Palani,
Dindugal District – 624 601
Vs.
.....Petitioner

The Management of Amaravathi
Cooperative Sugar Mills Ltd
Rep. by the Special Officer,
Krishnapuram Post,
Madathukulam Tk,
Tiruppur District – 642 111.
....Respondent

Prayer in W.P.

To issue a writ of certiorari or any other appropriate writ or order in the nature of a writ calling for the records in C.P.No.225 of 2013 on the file of the Additional Labour Court, Coimbatore dated 23.05.2019 and quash the same and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.



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Appearance of Parties:

For Petitioner: M/s. A.Sundaravadhanan, M.Arun and A.Indumathi, Advocates

For Respondent: Mr. A.Selvendran, Advocate

J U D G M E N T

Heard.

2.The present writ petition has been filed by the petitioner, a former employee of the respondent-management. The petitioner had earlier filed a claim petition under Section 33C(2) of the Industrial Disputes Act before the Additional Labour Court, Coimbatore, which was taken on file as C.P. No. 225 of 2013. In the said petition, the petitioner sought computation of wages for the period of non-employment from 2009 to 2013, amounting to Rs. 6,23,889.90, along with wage board arrears for a period of 29 months, calculated at Rs. 32,625/-.

3.Upon admission of the claim petition, the Labour Court ordered notice to the respondent-Sugar Mills. Pursuant thereto, the respondent filed a counter statement dated 28.08.2018. Before the Labour Court, the petitioner examined



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himself as WW1 and marked five documents, which were taken on record as

WEB Exhibits W1 to W5. On behalf of the management, one Mr. S. Navaneethan was examined as MW1, and five documents were marked on their side as Exhibits M1 to M5. In addition, the Labour Court summoned and marked the cash payment statements relating to two individuals, Sankarapandian and Kannan, as Exhibits X1 and X2.

4. The records disclose that a charge memo was issued to the petitioner on 18.07.2009, and surcharge proceedings were also initiated against him. Following a domestic enquiry and the issuance of a show cause notice, the petitioner was dismissed from service by order dated 12.10.2009, which was marked as Ex.W3. The petitioner initially raised an industrial dispute challenging his dismissal, which was taken on file by the Labour Court as I.D. No. 114 of 2010. However, by memo dated 01.07.2013, the petitioner withdrew the said industrial dispute, stating that he intended to pursue a claim petition under Section 33C(2) of the Industrial Disputes Act, owing to the management's failure to obtain prior approval as mandated under Section 33(2)(b). It was thereafter that the present claim petition came to be filed, seeking computation of back wages and wage board arrears.



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5. With respect to the alleged violation of Section 33(2)(b) of the Industrial Disputes Act, it was contended by the respondent-management that the industrial dispute raised by the union had been resolved as early as 04.08.2009, and hence, there was no subsisting conciliation proceeding at the time of the petitioner's dismissal, thereby negating any infraction of Section 33(2)(b). Upon a detailed analysis of the oral and documentary evidence adduced by both parties, the Labour Court found that no conciliation proceedings were pending on the date of the petitioner's dismissal. This finding was recorded in paragraphs 15 and 16 of the award as follows:

“15. Further, it is very pertinent to note that in Ex.M5 letter the Government, Industries (MIC-2) Department, dated 11-12-2009 addressed to the Commissioner of Sugars and copy communicated to the Special Officers / Administrators of all Co-operative Sugar Mills, it has been stated that the Government have decided to instruct them to take up the matter on wage revision after conducting of trade union election in all Co-operative Sugar Mills as per the direction of Hon'ble High Court of Madras. The Government Order in M.S.No.122, Industries (MIC-2) Department dated 09-10-2009 has also been referred in the above letter under Ex.M5.

16. The above order of the Hon'ble High Court, Madras and subsequent Government Orders and the instruction issued to the Commissioner of Sugars and all the Administrators of the Co-operative Sugar Mills, would clearly reveal that no dispute was



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pending on the date of dismissal order issued to the petitioner on 12.10.2009. Therefore the question of seeking approval for dismissal from the conciliation officer does not arise in this case. The violation of mandatory procedure stipulated under section 33(2)(b) of I.D.Act, alleged by the petitioner does not merit acceptance by this Court.”

6.The Labour Court further rejected the contention of the petitioner’s counsel that there was a deemed conciliation. In light of the foregoing findings, the Labour Court concluded that there was no violation of Section 33(2)(b) of the Industrial Disputes Act, which formed the foundation of the petitioner’s claim for wages. Consequently, it held that the petitioner did not possess a pre-existing right to maintain a claim under Section 33C(2). Aggrieved by the said finding, the petitioner filed the present writ petition, in which notice of motion was ordered on 09.03.2021. The respondent was duly served and has entered appearance through counsel. In the writ petition, the petitioner has once again reiterated the contention that, pursuant to the strike notice dated 23.03.2009 issued by the trade unions, a deemed conciliation existed at the relevant time.

7.The Labour Court rightly rejected the petitioner’s contention regarding the existence of a deemed conciliation arising from the strike notice issued by



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the unions. This Court finds no reason to interfere with the said finding of fact

recorded by the Labour Court. It appears that the petitioner, acting on erroneous legal advice, chose to withdraw the industrial dispute concerning his non-employment and instead sought to claim back wages by invoking a summary procedure under Section 33C(2). Having taken this course of action, the petitioner must now bear the consequences of his own misjudgment.

8.The writ petition, being devoid of merit and misconceived, is accordingly dismissed. However, there shall be no order as to costs.

29.05.2025

ay

NCC : Yes / No

Index : Yes / No

Speaking Order / Non-speaking Order

To

The Presiding Officer,
Additional Labour Court,
Coimbatore.

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DR. A.D. MARIA CLETE, J

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Pre-Delivery Judgment made in
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