



W.P. Nos.23953/09, etc. Batch

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	Pronounced on
13.03.2025	26.03.2025

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

**W.P. NO. 23953 OF 2009
W.P. NOS. 43555 & 23567 OF 2016
W.P. NOS. 31485 TO 31493 OF 2017
AND
W.M.P. NO. 20187 OF 2016
W.M.P. NOS. 34592, 34586, 34588, 31485, 34585, 34584,
34587, 34589, 34590 & 34591 OF 2017
W.M.P. NO. 15815 OF 2022**

ITC Ltd.
Post Box No.2277
Tiruvottiyur, Chennai-19.

.. Petitioner in WP Nos.
23953/09, 23567/2016, 31486,
31487, 31488, 31489, 31490,
31491, 31492 & 31493/2017

- Vs -

1. The Presiding Officer
Industrial Tribunal, Chennai.

2.P.Joseph
3.M.Ramakrishnan
4.K.Ambrose
5.K.Paramsivam
6.Movin Thomas



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7.A.Joseph Kennedy
8.V.Devanand
9.R.Veeramani
10.R.J.Jude Adaikalairaj
11.A.Md.Ansari
12.U.Alexander
13.M.S.Murthy
14.K.Arul Jothi
15.C.Karaikalan
16.G.Dinagar
17.S.Sathish Kumar
18.P.Karunanithi
19.A.Sagaya Doss
20.B.Noor Mohammed
21.C.P.Bharathi
22.B.G.Chandrasekaran
23.R.Chandrasekar

.. Respondents in WP 23953/09

ITC Employees Union
(Reg No.1852) Rep. by its
General Secretary
No.334, T.H.Road, Tiruvottiyur
Chennai-600 019.

.. Petitioner in WP 43555/16

- Vs -

1. The Industrial Tribunal,
Chennai Rep. by its Presiding Officer
City Civil Court Buildings
2nd Floor, Chennai-600 104.

2.ITC Ltd.
Rep. by its Works Manager,
Tiruvottiyur High Road,
Tiruvottiyur, Chennai-600 019.

.. Respondents in WP 43555/16



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ITC Limited
Post Box No.2277
Thiruvottiyur, Chennai.

.. Petitioner in WP 23567/16 &
31485 to 31493/2017

- Vs -

1. The Presiding officer
Industrial Tribunal
Chennai 600 104.

.. R-1 in WP 23567/16 &
WP 31485 to 31493/17

2.E.L. Joy

..R-2 in WP 31487/17

3.S.Balasundaram
4.I.Patrick Santhoshkumar
5.J.Yuvaraj
6.B.Ramanujam(Died)
7.T.Santhanam
8.R.Sethuraman
9.S.Govindaraj
10.D.Dhanasekharan
11.A.Arun Sundar
12.P.Raghuram
13.D.G.Robinson
14.C.Sakthivel
15.B.Sundaravadivel
16.A.K.Edward Kennedy
17.K.Madhialagan
18.S.Chandrasekar
19.A.Sagayaraj
20.K.Krishnamurthy
21.A.Edward Raj
22.H.Maria Soosai Anto
23.V.Nambirajan

.. RR-2 to 23 in WP 23567/16



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24.D. Venkatesan	.. R-2 in WP 31485/17
25 A.Arokiaraj	.. R-2 in WP 31486/17
26.Syed Yoosuf	.. R-2 in WP 31488/17
28.U Vincent Raj	.. R-2 in WP 31489/17
29.K. Prabhakaran	.. R-2 in WP 31490/17
30.S. Anbarasu	.. R-2 in WP 31491/17
31.G.M. Murugan	.. R-2 in WP 31492/17
32.H. Syed Yousuf	
33.Syed Thajuddin	
34.H. Gousiya Begum	.. R-2 in WP 31493/17

WP No. 23953 of 2009 filed under Article 226 of the Constitution of India praying this Court to call for the records from the file of the first respondent in Petition Nos.27 to 48 of 2001 in I.D.No.40 of 2001 and quash the order dated 26.8.2009.

WP No. 43555 of 2016 filed under Article 226 of the Constitution of India praying this Court to call for the records relating to the Award dt.03.05.2016 passed by the 1st respondent Industrial Tribunal, Chennai in I.D.No.40 of 2001 and quash the same as being illegal and unjust and direct the 1st respondent to



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adjudicate the ID No.40 of 2001 dispute on merits and in accordance with law, after affording opportunity to the petitioner, within a time frame.

WP No. 31487 of 2017 filed under Article 226 of the Constitution of India praying this Court to call for the records on the file of the First Respondent herein in Approval petition No.46 of 2003 in I.D. No.40 of 2001 on its file and quash the order dated 19.09.2017 passed by the First Respondent Industrial Tribunal, Chennai.

WP No. 23567 of 2016 filed under Article 226 of the Constitution of India praying this Court to call for the records on the file of the 1st respondent herein in Approval Petition Nos.1, 2, 3, 5 to 10 and 92 to 103 of 2002 in I.D.No.40/2001 and to quash the common order dated 21.04.2016 by the 1st respondent herein.

WP No. 31485 of 2017 filed under Article 226 of the Constitution of India praying this Court to call for the records on the file of the First Respondent herein in Approval petition No.2 of 2004 in I.D. No.40 of 2001 on its file and quash the order dated 19.09.2017 passed by the First Respondent Industrial Tribunal, Chennai.

WP No. 31486 of 2017 filed under Article 226 of the Constitution of India praying this Court to call for the records on the file of the First Respondent herein



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in Approval petition No.11 of 2003 in I.D. No.40 of 2001 on its file and quash the order dated 19.09.2017 passed by the First Respondent Industrial Tribunal, Chennai.

WP No. 31488 of 2017 filed under Article 226 of the Constitution of India praying this Court to call for the records on the file of the First Respondent herein in Approval petition No.45 of 2003 in I.D. No.40 of 2001 on its file and quash the order dated 19.09.2017 passed by the First Respondent Industrial Tribunal, Chennai.

WP No. 31489 of 2017 filed under Article 226 of the Constitution of India praying this Court to call for the records on the file of the First Respondent herein in Approval petition No.9 of 2004 in I.D. No.40 of 2001 on its file and quash the order dated 19.09.2017 passed by the First Respondent Industrial Tribunal, Chennai.

WP No. 31490 of 2017 filed under Article 226 of the Constitution of India praying this Court to call for the records on the file of the First Respondent herein in Approval petition No.7 of 2003 in I.D. No.40 of 2001 on its file and quash the order dated 19.09.2017 passed by the First Respondent Industrial Tribunal, Chennai.



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WEB COPY WP No. 31491 of 2017 filed under Article 226 of the Constitution of India

praying this Court to call for the records on the file of the First Respondent herein in Approval petition No.16 of 2003 in I.D. No.40 of 2001 on its file and quash the order dated 19.09.2017 passed by the First Respondent Industrial Tribunal, Chennai.

WP No. 31492 of 2017 v2009 filed under Article 226 of the Constitution of India praying this Court to call for the records on the file of the First Respondent herein in Approval petition No.1 of 2004 in I.D. No.40 of 2001 on its file and quash the order dated 19.09.2017 passed by the First Respondent Industrial Tribunal, Chennai.

WP No. 31493 of 2017 filed under Article 226 of the Constitution of India praying this Court to call for the records on the file of the First Respondent herein in Approval petition No.5 of 2004 in I.D. No.40 of 2001 on its file and quash the order dated 19.09.2017 passed by the First Respondent Industrial Tribunal, Chennai.

For Petitioners : Mr. S.Ravindran, SC, for
Mr. S.Jayaraman & S.Sai Prasad
In WP Nos.23953/09, 23567/16
& 31485 to 31493/2017
Mr. C.K.Chandrasekar in WP
No.43555/2016



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For Respondents : Mr. C.K.Chandrasekar for R-2 in
WP 31485 to 31493/2017 & for
RR-2 to 23 in WP 23953/09 and
for RR-2 to 22 in WP
23567/2016
Mr. S.Ravindran, SC, for
M/s. S.Jayaraman & S.Sai Prasad
for R-2 in WP No.43555/2016

COMMON ORDER

While W.P. Nos. 23953/09, 23567/2016, 31486, 31487, 31488, 31489, 31490, 31491, 31492 & 31493/2017 have been filed by the petitioner/company against the order in and by which the approval petitions with regard to the dismissal of the workmen filed by the petitioner/company were dismissed by the Tribunal, W.P. No.43555/2016 has been filed by the workmen challenging the order in and by which the dispute relating to the settlement entered into u/s 12 (3) was dismissed.

2. As both the issues are inter-connected, they are taken up together and disposed of by this common order. For brevity, the petitioner/company will be



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referred to as 'company' and the petitioner/workmen will be referred to as 'workmen'.

3. It is the case of the petitioner that it is engaged in the manufacture of printed cartons for various customers and in the course of its production activities, the company had been facing unforeseen hardship on account of the instigation of the then General Secretary of the Union, one Joseph Kennedy, against whom action was taken for unauthorised absence and show cause notice was issued proposing to impose punishment of dismissal and the said individual had instigated the workmen to go on illegal strike from 15.3.2001 which continued upto 16.5.2001 and pursuant to the tripartite agreement dated 16.5.2001, the factory operations resumed. However, even thereafter, the workmen embarked on go slow tactics, which defeated the spirit of the 12 (3) Settlement. Intimidation of the higher authorities and refraining from doing the work were resorted to by the workmen and even the workmen threatened the higher authorities with dire consequences. On 13.11.2001, the workmen, who are the respondents herein, indulged in vandalizing and looting the factory premises and the machinery were damaged and the officials of the company



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were manhandled and assaulted. Costly items of machinery were looted and large scale damage was caused in the said strike, which resulted in the lodging of FIR before Ennore Police.

4. It is the further case of the company that charge sheets were issued to several workmen on 17.11.2001 charging them for various misconduct, but the workmen failed to receive the charge sheet resulting in the same being sent by registered post, but were refused to be received. Enquiry was initiated against the workmen in which the workmen did not participate leading to the enquiry officer setting the workmen ex parte and the enquiry was concluded and the enquiry officer submitted a report holding that the charges against the workmen stood proved.

5. It is the further averment of the company that by order dated 22.12.2001 the workmen were dismissed from service considering the gravity of the misconduct and the indiscipline of the workmen. Thereafter, petition u/s 33 (2)(B) of the Industrial Disputes Act was filed before the Tribunal seeking approval of the order of dismissal. However, after hearing the parties and also the



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documents filed by the respective parties, the Tribunal dismissed the approval petitions by holding that the enquiry was not conducted in a fair and proper manner and the procedure adopted in the conduct of the domestic enquiry was not fair and proper and there is blatant violation of principles of natural justice. Aggrieved by the said order, the present batch of writ petition have been filed by the company.

6. Some of the workmen had question the validity of the settlement arrived at by filing I.D. No.40/2001 and pending the same I.A. No.51/2002 was filed. However, the said dispute was kept pending citing the pendency of the approval petitions by holding that the order in the approval petitions would have a bearing on the dispute relating to the settlement. Thereafter, the Tribunal, upon deciding I.A. No.51/2002, rejected the main I.D. No.40/2001, vide award dated 3.5.2016 aggrieved by which W.P. No.43555/2016 has been filed by the workmen.

7. The case has a chequered history and since 2016, the writ petitions have been moving up and down the Board of this Court without any finality being



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reached with regard to the impugned order dismissing the approval petitions.

Almost a decade had passed since the filing of the writ petitions, challenging the impugned order, which is in respect of certain acts, alleged to have been committed by the workmen, which is of the year 2001. Almost two decades and a half have passed since the dismissal of the workmen from service and the approval petitions were also dismissed almost a decade and a half back, but the workmen have been without employment and some of the workmen have been paid 17-B wages, while others have not been paid. All the workmen, as on date, have crossed the age of superannuation and it would be a useless exercise to direct the company to reinstate the workmen, if this Court intends to confirm the order passed by the Tribunal. Equally, it should also not be lost sight of that the workmen having not discharged any work, cannot be given gratis by extending the benefit of backwages, but at the same time, the workmen, who have been dismissed from service in violation of principles of natural justice cannot be allowed to suffer without any monetary compensation. Therefore, it becomes imperative for this Court to maintain the balance between the company and the workmen while considering the reinstatement of the workmen vis-a-vis the



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payment of compensation, as it is necessary that the interests of either party to the *lis* requires to be safeguarded.

8. Though exhaustive written submissions were placed before this Court and the learned counsel on either side made their respective submissions with regard to the merits of their case, though in a nutshell, however, when this Court pointed out the above position as is existing in the present case, learned counsel appearing for the parties sought time from this Court to put up the issue to the respective parties and get back to the Court. Thereafter, the learned senior counsel appearing for the company submitted a working chart showing the compensation that the company is willing to pay to the individual workmen as one time compensation in lieu of reinstatement and the learned counsel for the workmen submitted a chart with regard to the demand of compensation by the respective workmen. After perusing the above charts, when this Court pointed out that while the compensation, which the company is willing to pay is on the lower side while the compensation, which the workmen is ready to receive is on the higher side, upon taking instructions from the respective parties, learned counsel appearing for the company and the workmen submitted that this Court,



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considering the entire issue and in the interest of justice and balance of convenience, may fix a just and reasonable compensation to be paid by the company to which the workmen were also agreeable.

9. Learned senior counsel appearing for the company, laid reliance upon the decision of the Apex Court in ***O.P. Bhandari Vs. Indian Tourism Development Corpn. Ltd. and Ors. (1986 (4) SCC 337 :: MANU/SC/0475/1986)***, wherein, the Apex Court considering the beneficial aspect in respect of both the employer and the employee and without there being any hard feelings, though it fit to grant compensation in lieu of reinstatement, considering the length of service put in and the attainment of superannuation by most of the persons therein. In this regard, the Apex Court held thus :-

"7. So far as the facts of this case are concerned, we are satisfied that this is a fit case for granting compensation in lieu of reinstatement, instead of granting 'reinstatement'. For, it cannot be said that the apprehension voiced by the respondent-Corporation as regards the negative consequences of reinstatement is unreasonable. We do not propose to pronounce on the validity or otherwise of the allegations and counter allegations made by the parties in their respective affidavits.



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Suffice it to say that the relations between the parties appear to have been strained beyond the point of no return. The Trade Union of the employees has lodged a strong protest and even held out a threat of strike, in the context of some acts of the Appellant. Such unrest among the workmen is likely to have a prejudicial effect on the working of the undertaking which would prima facie be detrimental to the larger National interest, not to speak of detriment to the interest of concerned undertaking. We are not impressed by the submission that the Union is virtually a 'company's Union. In any case such disputed questions of facts cannot be resolved in this forum. We are prima facie satisfied that the apprehension is not ill-founded. What is more, reinstatement is perhaps not even in the interest of the appellant as he cannot give his best in the less-than-cordial-atmosphere and it will also result in misery to him, let alone the other side. Neither the undertaking nor the appellant can improve their image or performance, or, achieve success. In fact it appears to us that both sides will be unhappy and miserable. These are valid reasons for concluding that compensation in lieu of reinstatement, and not reinstatement, is warranted in the circumstances of the present case."

10. Yet again, in ***Workmen and Ors. Vs. Bharat Fritz Werner (P) Ltd. and Ors. (1990 (3) SCC 565 :: MANU/SC/0470/1990***), the Apex Court, reiterating the



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benefits of granting compensation in lieu of reinstatement, taking cue from the decision in *Bhandari's case (supra)*, held as under :-

"21. Reinstatement has not been considered as either desirable or expedient in certain cases where there had been strained relations between the employer and the employee, when the post held by the aggrieved employee had been one of trust and confidence, or when though dismissal or discharge was unsustainable owing to some infirmity in the impugned order, the employee was found to have been guilty of an activity subversive or prejudicial to the interests of the industry (Hindustan Steel Ltd. v. A.K. Roy MANU/SC/0315/1969 : (1970)ILLJ228SC . In cases where it is felt that it will not be desirable or expedient to direct reinstatement the workman is compensated monetarily by awarding compensation in lieu of reinstatement for loss of future employment.

* * * * *

23. In O.P. Bhandari v. Indian Tourism Development Corporation Ltd. and Ors. MANU/SC/0475/1986 : (1986)ILLJ509SC this Court has held that compensation equivalent to 3.33 years' salary (including allowances) as admissible on the basis of the last pay and allowances would be a reasonable amount to award in lieu of reinstatement. In that case the Court has taken into consideration the fact that the corpus, if invested at the prevailing rate of interest (15%), will yield 50% of the annual salary and allowances and the workman would get



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50% of what he would have earned by way of salary and allowances with four additional advantages :

(i) He will be getting this amount without working.

(ii) He can work somewhere else and can earn annually whatever he is worth over and above, getting 50% of the salary he would have earned.

(iii) If he had been reinstated he would have earned the salary upto the date of superannuation (upto 55, 58 or 60 as the case may be) unless he died earlier. As against this 50% he would be getting annually he would get not only beyond the date of superannuation, for his life time (if he lives longer), but even his heirs would get it in perpetuity after his demise.

(iv) The corpus of lump sum compensation would remain intact, in any event."

11. Considering the stand taken by the learned counsel appearing for the company as also the workmen and also taking into consideration the decision relied on by the learned senior counsel for the company, as extracted supra and also referring to the working charts showing the demand made by the workmen and the compensation which the company has proposed and is willing to pay and also considering the fact that most of the workmen have, by now, reached the age of superannuation and some of the workmen have left for the heavenly



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abode and it is only the legal heirs, who would be the recipient of the said compensation and also not forgetting the fact that there is a strained relationship between the workmen and the company, which cannot be bridged at this distant point of time, as no useful purpose would be served in prolonging the matter any further, this court is of the considered view that a lumpsum compensation in lieu of reinstatement would be in the best interests of either party, as each party could very well proceed in their own way putting an end to the continuous and contiguous litigation.

12. In the aforesaid circumstances, this Court, considering the working sheet submitted by either side, is inclined to fix a sum of Rs.60,000/- for such of those workmen, whose last drawn salary is in the region of Rs.5900/- to Rs.6400/- ; Rs.55,000/- to such of those workmen, whose last drawn salary is in the region of Rs.5,400/- to Rs.5,899/- and Rs.50,000/- to such of those workmen, whose last drawn salary is in the region of Rs.4,700/- to Rs.5,399/- for each completed year of service put by the individual workmen and arrives at the amount payable to each workmen as shown in the below tabulated statement :-



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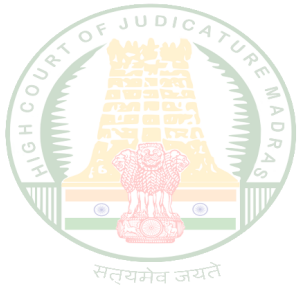
S. No.	Name	Approx. length of service	Last drawn salary And rtmt. year	Proposed compensation offered by the management	Compensation claimed by workmen	Amount quantified by the court
1	Joseph P	19	6,100/2022	4,06,667	30,00,000	1140000
2	Ramakrishnan M	19	5,900/2024	3,93,333	35,00,000	1140000
3	Ambrose K	19	5,900/2014	3,93,333	20,00,000	1140000
4	Paramasivam K	11	5,700/2025	3,80,000	35,00,000	605000
5	Movin Thomas	19	6000/2015	4,00,000	25,00,000	1140000
6	Joseph Kennedy	10	5700/2029	3,80,000	35,00,000	550000
7	Devanand	5	5300/2029	3,53,333	34,00,000	250000
8	Veeramani R	19	6200/2019	4,13,333	25,00,000	1140000
9	Jude Adikalraj	19	6000/2024	4,00,000	34,00,000	1140000
10	Mohamed Ansari A	4	5300/2036	3,53,333	30,00,000	200000
11	Alexander U	19	5900/2022	3,93,333	30,00,000	1140000
12	Murthy M S	18	5900/2001	3,93,333	20,00,000	1080000
13	Arul Jothi K	19	6300/2022	4,20,000	32,00,000	1140000
14	Karikalan C	5	5300/2022	3,53,333	30,00,000	250000
15	Dinakar G	4	5300/2034	3,53,333	30,00,000	200000
16	Sathish Kumar S	5	5300/2031	3,53,333	30,00,000	250000
17	Karunanidhi P	8	5700/2025	3,80,000	30,00,000	440000
18	Sahayadoss A	5	5300/2037	3,53,333	30,00,000	250000
19	Noor Mohamed B	5	5300/2033	3,53,333	30,00,000	250000
20	Bharathi C P	9	5700/2033	3,80,000	30,00,000	495000
21	Chandrasekhar B G	9	5800/2024	3,86,667	30,00,000	495000
22	Chandrasekhar R	5	5300/2032	3,53,333	30,00,000	250000
23	Balasundaram S	5	4930/2033	3,28,667	30,00,000	250000
24	Patric Santhosh Kumar I	5	4910/2036	3,27,333	25,00,000	250000
25	Yuvaraj J	5	4910/2037	3,27,333	25,00,000	250000
26	Ramanujam B (D)	22	6164/2008	4,10,933	10,00,000	1320000
27	T Santhanam	6	4930/2035	3,28,667	30,00,000	300000
28	Sethuraman R	6	4966/2032	3,31,067	30,00,000	300000
29	Govindaraj S (D)	22	5674/2005	3,78,267	5,00,000	1210000



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30	Dhanasekar D	5	4910/2034	3,27,333	25,00,000	250000
31	Arun Sundar A	5	4936/2018	3,29,067	15,00,000	250000
32	Raghuraman P	7	4983/2029	3,32,200	25,00,000	350000
33	Robinson D G	5	4910/2034	3,27,333	25,00,000	250000
34	Sakthivel C	6	4910/2032	3,27,333	25,00,000	300000
35	Sundaravadivel B	5	4910/2027	3,27,333	25,00,000	250000
36	Edward Kennedy A K (D)	6	4910/2019	3,27,333	25,00,000	300000
37	Mathialagan K	20	5597/2016	3,73,133	15,00,000	1100000
38	Chandrasekaran S	6	4910/2029	3,27,333	25,00,000	300000
39	Sahayaraj A (D)	20	5636/2017	3,75,733	20,00,000	1100000
40	Krishnamurthy K	5	4910/2034	3,27,333	25,00,000	250000
41	Edward Raj As	5	4910/2037	3,27,333	25,00,000	250000
42	Maria Susai Anto	5	4910/2033	3,27,333	25,00,000	250000
43	Nambirajan V	6	4966/2029	3,31,067	25,00,000	300000
44	Venkatesan D	8	4997/2029	3,33,133	20,00,000	400000
45	Arokiaraj A	23	5931/2010	3,95,400	10,00,000	1380000
46	Joy E L	6	4910/2033	3,27,333	25,00,000	300000
47	Syed Yousuf	6	4910/2038	3,27,333	25,00,000	300000
48	Vincent Raj U	8	4910/2004	3,27,333	25,00,000	400000
49	Prabakaran K	6	4910/2036	3,27,333	25,00,000	300000
50	Anbarasan S	21	5598/2016	3,73,200	15,00,000	1155000
51	Murugan G M	21	5609/2015	3,73,933	10,00,000	1155000
52	Mastan K (D)	22	5712/2005	3,80,800	10,00,000	1210000

13. Accordingly, W.P. Nos.23953/2009, 23567/2016, 31486, 31487, 31488, 31489, 31490, 31491, 31492 & 31493/2017 are disposed of directing the petitioner/company to pay the compensation to the individual workman as shown in the abovesaid tabular statement against the names of the respective



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workmen as compensation in full quit in lieu of their reinstatement and it is made clear that the aforesaid workmen would not be entitled to any other monetary compensation from the company. In view of the order passed in the above writ petitions, W.P. No.43555/16 filed by the workmen challenging the settlement entered into u/s 12 (3) no longer survives and the same is dismissed as having become infructuous. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

26.03.2025

Index : Yes / No

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To

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M.DHANDAPANI, J.

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**PRE-DELIVERY ORDER IN
W.P. NO. 23953 OF 2009
W.P. NOS. 43555 & 23567 OF 2016
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