



WEB COPY

WP No. 17194 of 2010



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-02-2025

CORAM

THE HONOURABLE MR JUSTICE M.DHANDAPANI

WP No. 17194 of 2010

1. The Management Of
M/s.Chemplast Sanmar Ltd, Plant Ii,
Raman Nagar, Mettur Dam, Rep By Its
Divisional Manager-legal

Petitioner(s)

Vs

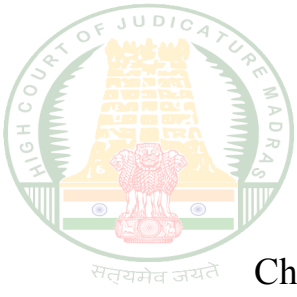
1. The Presiding Officer
Labour Court, Salem

2.S.Rajendran
B.10 Tsn Nagar, Raman Nagar,
Mettur Dam.

Respondent(s)

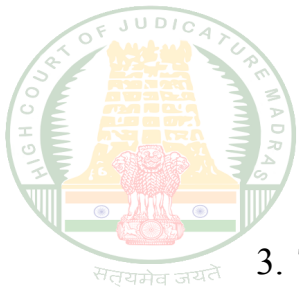
PRAYER: This writ petition has been filed under Article 226 of Constitution of India, to issue a writ of Certiorari, calling for the records of the 1st respondent in I.D.No.482 of 2004 and quash its Award dt 29.12.2009.

For Petitioner(s): MR. P. GURUNATHAN
FOR
M/S.T.S.GOPALAN AND CO.
For Respondent(s): M/S S.GIRIJA FOR R2
R1- LABOUR COURT

**ORDER**

Challenging the award passed by the 1st respondent in I.D.No.482 of 2004 dated 29.12.2009 by directing the second respondent to reinstate in service with 50% backwages with continuity of service only for the purpose of pensionary-retirement benefits.

2. It is the case of the petitioner that the second respondent was working as Assistant Helper in the petitioner establishment and he was a regular absentee. According to the petitioner, the second respondent had taken unauthorized leave on two occasions. The charge sheets dated 15.02.2002 and 09.03.2002, in respect of two spells of the unauthorized absent for 103 days. The second respondent submitted that he has given prior intimation to the management by submitting leave letters along with medical certificates. According to the petitioner, the medical certificates submitted by the second respondent is bogus one. Therefore, the petitioner terminated the service of the second respondent. Challenging the said order of dismissal, the second respondent raised an industrial dispute before the Labour Court, which was taken on file in ID. No.482/2004. On an analysis of both oral and documentary evidence, the Labour Court set aside the order of dismissal by directing the petitioner to reinstate the second respondent in service with 50% back wages and with continuity of service only for the purpose of pensionary-retirement benefits. Challenging the said order, the petitioner management has filed the present writ petition.

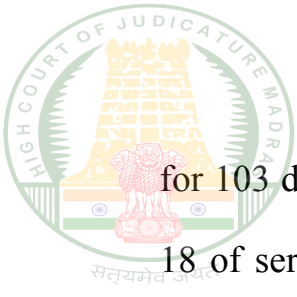


3. The learned counsel for the second respondent submitted that during pendency of the writ petition, the second respondent died. The legal representative has not come forward to defend the case. The Labour Court after perusing the entire oral and documentary evidence, passed the order in favour of the workmen which needs no interference. The learned counsel further submitted that this Court may permit the legal heirs to receive the benefits as ordered by the Labour Court.

4. Heard the learned counsel for the petitioner and the learned counsel for the second respondent. Perused the materials available on record.

5. Admittedly, the petitioner Management after conducting enquiry ordered for termination as against the second respondent on the ground that the workman was unauthorized absent for 103 days. Prior to the termination, the workman was continuously absent. However, in order to prove the absence, the petitioner has not produced any document before the Labour Court with regard to previous punishment. Apart from that, the leave application was presented by the workman and the same was marked as Exhibits.

6. The petitioner has produced the judgment passed by Hon'ble Supreme Court. On perusal of the same, it is seen that the Apex Court has held as against the workman. However, in the present case, the second respondent was absent



for 103 days and he was entered into service in the year 1978. He has rendered 18 of service. Therefore, order of termination is too harsh under the facts and circumstances of the case. Hence, this Court is not inclined to interfere with the impugned order passed by the Labour Court.

7. The petitioner Management is directed to deposit the entire benefits as awarded by the Labour Court in the credit of ID No.482/2004 within a period of four weeks from the date of receipt of a copy of this order. Liberty is granted to the legal heris of the second respondent to withdraw the said benefits after filing necessary application before the Labour Court.

8. With the above direction, the writ petition fails and the same is dismissed. No costs.

04-02-2025

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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To
1. The Presiding Officer
Labour Court, Salem



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M.DHANDAPANI J.

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