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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2025

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**W.P.Nos.17331 and 19685 of 2010
and M.P.No.1 of 2013**

W.P.No.17331 of 2010

The Management of
Mohan Breweries and Distilleries Limited,
PIPDIC Industrial Estate,
Mettupalayam, Puducherry,
rep.by its
Managing Director.

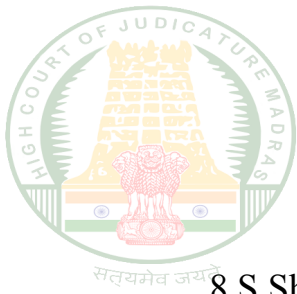
... Petitioner

Vs.

1.The Presiding Officer-cum-
II Additional District Judge,
Labour Court, Puducherry.

M.B.D.L.Thozhilalar Sangam,
Rep.by its members

2.R.Murugaiyan
3.K.Ravi
4.S.Thiagarajan
5.V.Pazhani
6.T.Selvaraj
7.S.Vadivel



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8.S.Sheik Kadar

9.J.Aruvel

10.T.Jacob Jayaseelan

11.M/s.Devi Innoventures LLP,
PIPDIC Industrial Estate, Mettupalaiyam,
Pondicherry.

(*R11 is impleaded *vide* order dated 10.12.2024 made in W.M.P.No.28822 of 2022 in W.P.No.17331 of 2010*).

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records of the first respondent in I.D.No.38 of 2007 and quash its award dated 22.03.2010.

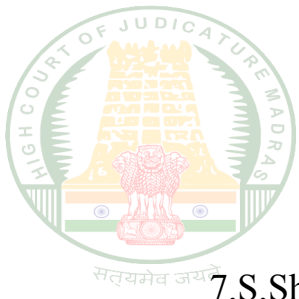
For Petitioner : Mr.Anand Gopalan
for M/s.T.S.Gopalan & Co

For Respondents : Mr.P.R.Thiruneelakandan
for R2 to R10
Mr.A.Umapathy for R11

W.P.No.19685 of 2010

M.B.D.L.Thozhilalar Sangam,
Rep.by its members

- 1.R.Murugaiyan
- 2.K.Ravi
- 3.S.Thiagarajan
- 4.V.Pazhani
- 5.T.Selvaraj
- 6.S.Vadivel



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7.S.Sheik Kadar

8.J.Aruvel

9.T.Jacob Jayaseelan

... Petitioners

Vs.

1.The Managing Director,
Mohan Breweries and Distilleries Limited,
PIPDIC Industrial Estate,
Mettupalayam, Pondicherry.

2.The Presiding Officer,
Labour Court, Pondicherry.

3.M/s.Devi Innoventures LLP,
PIPDIC Industrial Estate, Mettupalaiyam,
Pondicherry.

... Respondents

*(*R3 was impleaded vide order dated 10.12.2024 made in W.M.P.No.27024 of 2022 in W.P.No.19685 of 2010*)*

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records of the second respondent in relating to the award passed in I.D.No.38 of 2007 dated 22.03.2010 and quash in respect of denial backwages, consequently direct the first respondent to pay full backwages to the petitioners.



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For Petitioners : Mr.P.R.Thiruneelakandan
For Respondents : Mr.Anand Gopalan
for M/s.AGAM Legal for R1
R2-Court
Ms.A.Umapathi for R3

COMMON ORDER

Aggrieved by the order of the Labour Court declining payment of backwages, the Union has preferred W.P.No.19685 of 2010. Aggrieved by the reinstatement ordered by the Labour Court, the Management has preferred W.P.No.19685 of 2010.

2. For the sake of convenience and clarity, MBDL Thozhilalar Sangam is hereinafter referred to as Union and its members are referred to as workmen. The petitioner and the respondent No.11 in W.P.No.17331 of 2010 / respondent Nos.1 and 3 in W.P.No.19685 of 2010 are referred to as the Management.

3. It is the case of the Union that it was formed in accordance with

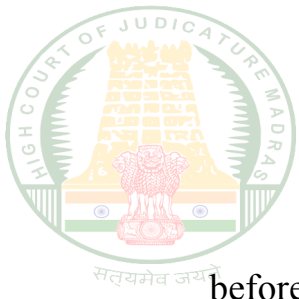


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the provisions of the Trade Union Act, 1926 with R.Murugaiyan, K.Ravi, S.Thiagarajan, V.Pazhani, T.Selvaraj, S.Vadivel, J.Arulvel, Jacob Jayaseelan and S.Shaik Kadar as its members, who were initially appointed as Trainee in the Management and, thereafter, their employment was confirmed in various posts.

4. It is the further averment of the workmen that the other workers of the Management formed another Trade Union. However, the Management did not want any Trade Union in its factory and, therefore, to victimize the employees, the Management resorted to suspending the members of the petitioner Union on false charges on various dates and after conducting an enquiry, the workmen were terminated from service. It is the further averment of the workmen that neither show cause notice was issued nor explanation was called for and in a pre-determined manner, the Management terminated the services of the workmen.

5. Aggrieved by the said order of termination, a dispute was raised

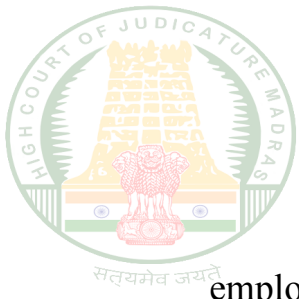


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before the Conciliation Officer and failure of the conciliation proceedings, the matter was referred to the court and the case was taken up by the Labour Court in I.D.No.38/2007. Upon adjudication of the case on the basis of oral and documentary evidence, the Labour set aside the order of termination issued by the Management and directed reinstatement of the workmen with continuity of service, but without backwages without proper reasons. Challenging the same, these writ petitions have been filed.

6. Learned counsel appearing for the workmen submitted that during the pendency of the writ petition, K.Ravi passed away and V.Pazhani superannuated from service and Arulvel has secured another job. Therefore, except for Arulvel, the remaining workmen agreed to work with the same Management if the Management is agreeable to provide reasonable backwages.

7. Learned counsel appearing for the Management submitted that during the pendency of the writ petition, except a few employees, the other



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employees were paid 17-B wages and if the workmen are agreeable to join the Management, the Management may be permitted to deduct the 17-B wages that was paid to the respective workmen, while paying the wages.

8. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record.

9. A perusal of the order passed by the Labour Court reveals that the Court below has held that the order of termination was illegal and, therefore, ordered reinstatement. In fine, what transpires from the said order is that the workmen have not been at fault. Once the Labour Court has come to the definitive conclusion, the Labour Court ought to have considered the issue of backwages, as negating the workmen from any backwages would act as a scar, when termination was not their fault. Though the concept of 'No work, No pay' will stand attracted, however, when the termination is declared to be illegal, the workmen cannot be denied backwages in its



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entirety for no fault of their.

10. In this backdrop, it is seen that except for three persons, viz., K.Ravi, who is since deceased, V.Palani, who has since superannuated and V.Arulvel, who has secured a job pending the present dispute, all other workmen are ready to join the Management and the Management is also ready to take them on their rolls, with a caveat that the 17-B wages, that was paid to them be allowed to be deducted while reinstating the said workmen.

11. In view of the fair stand taken by the parties with regard to the workmen, barring the three mentioned above, relating to their employment with the Management, the workmen not being at fault and not attributable with any delinquency relating to their termination, this Court holds that upon their reinstatement, the said workmen would be entitled to 25% backwages from the date of their dismissal till the date of their reinstatement and the 17-B wages, if any, paid to the said workmen, the Management is permitted to deduct the same while computing the backwages and pay the same to the workmen upon their reinstatement.



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12. Insofar as the deceased workman, K.Ravi is concerned, this Court holds that the said workman would be entitled to backwages at 50% from the date of dismissal till the date of his death. The Management is directed to calculate the entire terminal benefits along with 50% backwages payable to the said workman and after deducting the 17-B wages paid to the said workman, pay the balance amount, which would be inclusive of terminal benefits to the legal heirs of the said workman within a period of four weeks from the date of receipt of a copy of this order.

13. Insofar as V.Pazhani is concerned, this Court awards backwages at 50% from the date of dismissal till the date of his superannuation, considering the fact that the said workman had superannuated from service and had not enjoyed the employment, though for no fault of his. The Management is directed to calculate the entire terminal benefits along with 50% backwages payable to the said workman and after deducting the 17-B wages paid to the said workman, pay the balance amount, which would be inclusive of terminal benefits to the workman within a period of four weeks



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from the date of receipt of a copy of this order.

14. Failing payment of the amount quantified above within the time prescribed, the workmen would be entitled to interest at 12% p.a. on the said amount from the date of their dismissal till the date of payment.

15. Insofar as J.Arulvel is concerned, in view of the fact that pending the dispute, the said workman had got himself employed, the question of reinstatement of the said workman would not arise and in consequence thereof, the question of payment of backwages would also not arise. Therefore, no relief is granted to the said workman.

16. Accordingly, these writ petitions are disposed of with the aforesaid observations and directions as given in paragraph Nos.10 to 14. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

06.02.2025

NCC: Yes / No

Index : Yes / No



Speaking Order : Yes / No
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To

The Presiding Officer-cum-
II Additional District Judge,
Labour Court, Puducherry.



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M.DHANDAPANI, J.

ssb

W.P.Nos.17331 and 19685 of 2010

06.02.2025