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W.P.Nos.2306 and 2307 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2025

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.2306 and 2307 of 2011

And

M.P.Nos.1 & 2 of 2011, 1 of 2012 and 1 of 2011

The Management
T.Abdul Wahid & Company,
Foot Wear Division,
Ambur.

... Petitioner in both the W.Ps.

Vs.

1.B.Fathima

2.The Presiding Officer,
Additional Labour Court,
Vellore.

... Respondents in W.P.2306/2011

1.Kavitha

2.M.Rani

3.B.Paritha

4.H.Zainabee

(Respondents 3 & 4 did not press their claim
Before the Additional Labour Court on 4.3.2008)

5.V.Umamageswari

6.M.Manjula

7.G.Arulnayagi

8.P.Yasotha

9.R.Mythali

10.R.Jeeva

11.B.hameetha

12.The Presiding Officer,
Additional Labour Court,



W.P.Nos.2306 and 2307 of 2011

... Respondents in W.P.2307/2011

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Common Prayer:

Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the production of the records pertaining to the order dated 05.10.2010 passed in CP Nos.359 and 348 of 2005 respectively, passed by the 2nd respondent and 12th respondent respectively, the Additional Labour Court, Vellore and quash and set aside the said order.

For Petitioner : Mr.Rishab R.Jain
for M/s.BFS Legal
in both the W.Ps.

For Respondents : Mr.S.Senkodi for R1
R2 – Court
in W.P.No.2306 of 2011

Mr.S.Senkodi for R1, R5, R8 to R10
R2 to R4, R6, R7, R11
– No Appearance
R12 – Court
in W.P.No.2307 of 2011

COMMON ORDER

The writ petitions have been filed seeking to quash the order dated 05.10.2010 passed in C.P.Nos.359 and 348 of 2005 respectively, by the Additional Labour Court, Vellore.



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2.Since the issue involved in these writ petitions are interrelated, they are heard together and disposed of by way of a common order.

3.The case of the petitioner is that the petitioner is a footwear industry involved in the manufacture of footwear and its components and it is an export oriented unit and the entire production caters to only foreign orders. The petitioner operates three units at Kommeswaram, Ambur; unit A is involved in production of shoe uppers; units B and C are involved in the manufacture of full shoes and the production in Unit C depends on the production of Unit B. Since certain foreign customers whose shoes were manufactured in unit A insisted the unit to refrain from taking up supply orders from other buyers, the petitioner was constrained to lease out a factory premises. The petitioner shifted one production line comprising conveyor – 1 section to the unit II set up at Vadapupattu, Ambur, 5Km. away from Kommeswaram and 70 workers were issued with notice directing them to report work at unit II from 22.08.2005, however, the workers refused to work and workers totalling 224 indulged in illegal sit in strike.



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4.The further case of the petitioner is that the respective private respondents remained unauthorisedly absent from 10.07.2005 and 24.09.2005 respectively and they filed C.P.Nos.359 and 348 of 2005 respectively, before the Additional Labour Court, Vellore claiming wages and other benefits for the period between 13.08.2005 and 08.11.2005 under Section 33 C (2) of the Industrial Disputes Act. Thereafter the respondents 3 and 4 in W.P.No.2307 of 2011 did not press their claim before the Labour Court and the Labour Court passed the impugned order dismissing the petition insofar as the respondents 3 and 4 in W.P.No.2307 of 2011 are concerned and granting the relief sought for by the other private respondents. Challenging the same, these writ petitions have been filed.

5.The learned counsel appearing for the petitioner submitted that computation petition under Section 33 C (2) of the Industrial Disputes Act is maintainable only on the basis of the pre existing rights. In the present case, no material was produced before the Labour Court or this Court for closure of the unit and it is only conversion of unit for the benefit of foreign buyers and it is only 5Kms.



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away and the private respondents did not report duty and hence, they

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are not entitled to file computation petition under Section 33 C (2) of the Industrial Disputes Act. The learned counsel further submitted that only when it is closure or lay off, then the petitioner should comply the procedure contemplated under Section 25 O and Section 25 M of the Industrial Disputes Act. In the present case, it is only transfer and there is no loss of employment and hence the impugned order is not sustainable one.

6.Though the name of the respondents 2 to 4, 6, 7, 11 in W.P.No.2307 of 2011 were printed in the cause list, there is no representation. Considering the pendancy of the writ petition, this Court is inclined to proceed with the case and decide the same based on the materials available on record.

7.Admittedly, the respective private respondents were in employment under the petitioner in unit A and they claim that their services were terminated without any closure notice and the petitioner unit was closed contrary to Section 25 O and Section 25 M of the Industrial Disputes Act. The petitioner claim that they shifted one



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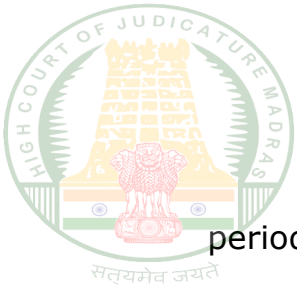
production line comprising conveyor – 1 section to the unit II set up at

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Vadapupattu, Ambur, 5Km. away from Kommeswaram and a circular dated 16.08.2005 was issued and also pasted in the notice board and 70 workers employed in unit A was transferred to unit II.

8.Perusal of records reveal that no transfer order was issued to any individual employees directing them to report duty in unit II and no proof is available to show that the private respondents were provided employment from 13.08.2005 to 08.11.2005. When the petitioner stopped one conveyor – 1 section, there must be notice under Section 25 O of the Industrial Disputes Act. In the present case, no notice under Section 25 O of the Industrial Disputes Act was issued. Hence, the private respondents were in non employment from 13.08.2005 to 08.11.2005 and hence they filed the computation petitions and the Labour Court passed the impugned order, which warrants no interference.

9.The respondents 3 and 4 in W.P.No.2307 of 2011 had not pressed their claim before the Labour Court. The petitioner Management is directed to settle the wages and other benefits for the



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period between 13.08.2005 and 08.11.2005 to the other private respondents, except respondents 3 and 4 in W.P.No.2307 of 2011, without any interest, as expeditiously as possible.

10.The writ petitions are dismissed with the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

17.02.2025

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

To

1.The Presiding Officer,
Additional Labour Court,
Vellore.



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