



W.P.No.3057 & 15792 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 07.01.2025

CORAM:

THE HONOURABLE MR. JUSTICE **D.BHARATHA CHAKRAVARTHY**

W.P.No.3057 & 15792 of 2010

and

M.P.No. 1 of 2010 & W.M.P.No.4655 of 2023

W.P.No. 3057 of 2010

M. Ammavasai

... Petitioner

Vs

1. The Presiding Officer,
Additional Labour Court, Vellore.
2. Nag Leathers Private Limited,
No. 48, Sipcot, Ranipet, Vellore.
3. C.Ramasubramanian,
Liquidator of Nag Leathers Private Limited,
No. 48, SIPCOT, Ranipet, Vellore
Having Office at Raji, 3B1, 3rd Floor, Gaiety Palace,
No. 1L. Blackers Road, Chennai-2.
(R3-IMPLEADED AS PER ORDER
DATED 09.12.2024 IN WMP.4655/2023
IN WP.3057/2010)

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus, after calling for the records pertaining to the award dated 20.01.2010 passed by the first Respondent in



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I.D.No.46/2009, quash the same and consequently direct the second Respondent to reinstate the petitioner with continuity of service, backwages and all other attendant benefits, award costs.

For Petitioner : Mr.V.Ajoy Khose
For R1 : Labour Court
For R2 : Mr.S.Raghunathan
for M/s.T.S.Gopalan & Co
For R3 : Not ready in notice

W.P.No. 15792 of 2010

The Management of
Nag Leathers Private Limited,
48, SIPCOT Industrial Complex,
Ranipet - 632 403, rep. by its
Managing Director.

... Petitioner

Vs

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

2. M. Ammavasai

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorari, calling for the records of the first respondent in I.D.No.46 of 2009 and quash its Award dated 20.01.2010.

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



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For R1 : Labour Court

For R2 : Mr.V.Ajoy Khose

ORDER

These two writ petitions are challenging the very same award of the Additional Labour Court, Vellore made in I.D.No. 46 of 2009, dated 20.01.2010 and as such are taken up and disposed of by this common order.

2. By the award, while finding that the non-employment of the workman was unjustified, the Labour Court concluded that this was not a fit case to order reinstatement of the workman. Therefore, compensation in lieu of reinstatement with back wages amounting to Rs.35,000/- was ordered. Aggrieved by the findings that the non employment / retrenchment was erroneous, the management has filed the W.P.No.15792 of 2010. Aggrieved by the fact that only a sum of Rs.35,000/- was granted as compensation, the workman has filed the W.P.No. 3057 of 2010.



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3. Pending the writ petition, the company was liquidated and

Mr.C.Ramasubramanian was appointed as the liquidator of the said company.

Accordingly, he was impleaded as the third respondent in the writ petition filed by the workman and notice of hearing was also served on him.

4. When the matter came up for hearing, Mr.S.Raghunathan, the learned counsel appearing on behalf of the erstwhile management would submit that due to the company being liquidated and the liquidator being in charge of the liquidation affairs, he could no longer represent the company.

5. In view thereof, in Writ Petition No.15792 of 2010, the name of the liquidator, namely, Mr.C.Ramasubramanian having address at Raji, 3B1, 3rd Floor, Gaiety Palace, No. 1L. Blackers Road, Chennai-2 is substituted as representing the management. Notice has already been served on the liquidator, however, he has not chosen to appear before this Court either in person or through the same counsel to continue the matter nor he has engaged any other counsel to represent him. In view thereof, this Court proceeded to consider the matter on its merits.



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6. It is seen that the charge against the workman is about absenteeism.

It was the explanation of the workman that merely because he made certain demands for payment of wages equivalent to the other employees, he was not permitted to attend work. The labour Court considered the case of the parties and the evidence of M.W.1 and M.W.2. M.W.2 admitted that the workman had quarrelled with him demanding a higher salary. It was also further admitted by the management witness that after receiving Ex.W2, which was the letter sent by the workman to the management, the management did not reply for the same. When the workman wrote a letter alleging that he has been wrongfully retrenched from service and the management had not chosen to reply for the same, the Labour Court considered the said circumstance and came to the conclusion that the workman was not absent from work. On the contrary, it was the management that prevented him from attending work and therefore on that score, held that the non-employment was not justified. The finding of the Labour Court cannot be said to be perverse as it was based on a proper appreciation of the evidence on record. Therefore, the contention of the management against this finding is without any merits.



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7. As far as the relief that is granted, apart from the grounds relied upon by the Labour Court, since the company has been liquidated, no exception whatsoever can be taken to the Labour Court granting compensation in lieu of reinstatement. However, when the workman was receiving a monthly salary of Rs.3824/- per month, awarding compensation of Rs.35,000/- is extremely on the lower side and is not justified by any reasoning.

8. Roughly, as indicated by the Honourable Supreme Court of India in O.P Bhandari's case, 39 months salary, ought to have calculated and some addition towards the loss of future employment should also be given. If that calculation is made along with an addition for the loss of future employment, I am of the view that a sum of Rs.1,90,000/- would be an appropriate compensation. Therefore, to that extent, the award of the Labour Court stands modified. The sum of Rs.1,90,000/- shall be considered as the claim of the workman as per the order of this Court and shall be appropriately considered by the liquidator for disbursal of the amount in accordance with the law and priority of claims. Within two weeks from the receipt of a copy of this order, the workman shall make a claim in due form to the liquidator who shall



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consider it in accordance with law and disburse the compensation amount.

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9. In view of the above, these writ petitions are disposed of on the following terms:-

(i) The award of the Labour Court dated 20.01.2010 made in I.D.No.46 of 2009 is upheld in as much as it finds that the non-employment is not justified and that compensation be paid in lieu of reinstatement with backwages.

(ii) The award of the Labour Court, however, is modified with reference to the quantum of compensation. The award of Rs.35,000/- is set aside and enhanced to Rs.1,90,000/-. The workman shall make a claim within a period of two weeks from the date of receipt of a copy of the order to the liquidator, with reference the said amount of Rs.1,90,000/- and the same shall also be included in the list of claims and shall be considered by the liquidator in accordance with law from among the available funds and shall be disbursed to the workman in the manner known to law.

(iii) If the liquidation process is completed and the entire process is dissolved, the workman may also approach the appropriate Company Law Tribunal and if any amount is leftover, a claim shall be made for the disbursement of that amount.



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(iv) No costs. Consequently, connected miscellaneous petitions are closed.

07.01.2025

Neutral Citation: Yes/No
nsl

To
The Presiding Officer,
Additional Labour Court,
Vellore, Vellore District.

D.BHARATHA CHAKRAVARTHY, J.

nsl



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