



W.P.No.9879 of 2010

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2025

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.9879 of 2010

M/s.S and S Industries and Enterprises Ltd,
Rep. by its Dy.General Manager, S.Ramasamy,
204, SIDCO AIEMA Towers, First Main Road,
Ambattur Industrial Estate, Chennai - 58.

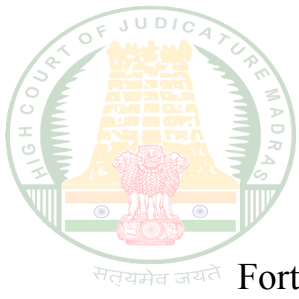
C.A.Mahalingam Suresh Kumar,
Insolvency Professional, No.27/9, Nivedh Vikas
Pankaja Mill Road, Puliyakulam, Coimbatore - 641 045.

(Suo motu impleaded as per order, dated 17.12.2024
in W.P.No.9879 of 2010)

.. Petitioner

Versus

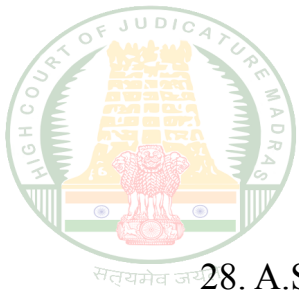
1. The Presiding Officer,
Principal Labour Court,
Vellore,
Vellore District.
2. The Secretary to Government,
Labour & Employment Department,
Government of Tamil Nadu,



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Fort St. George,
Chennai - 600 009.

3. C.Velmurugan
4. K.Rajendiran
5. B.P.Ramakrishnan
6. R.Munusamy
7. A.K.Ranganathan
8. K.Arumugam
9. G.Baskaran
10. D.Sundaramoorthy
11. P.Rukku Ammal
12. R.Jagan
13. R.Baskar
14. G.Mohanam
15. S.Ramanathan
16. D.Srinivasan
17. K.Shanmugam
18. N.Kuppan
19. N.Vijayaragavan
20. L.Swaminathan
21. S.Hari Krishnan
22. B.Mohana
23. C.Rajkumar
24. A.Sivasankaran
25. M.Balaraman
26. M.Palani (Died)
Bhavani, W/o.M.Palani
Minor Aruna, D/o.M.Palani
(Amended as per order in I.A.No.1 of 2010
on 08.01.2010)
27. R.Govindan



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28. A.S.Saravanan
29. A.Srinivasan
30. J.Ravichandran
31. M.Mekendiran
32. A.Sambandam
33. G.Venkatesan
34. S.Baskar
35. L.Gunasekaran
36. D.Balaji
37. D.Balaji
38. D.Raghu
39. M.Shanmuga Sundaram
40. S.Venugopal
41. K.Sugumar
42. S.Swaminathan
43. A.Murugavel
44. K.Ravichandran
45. K.Sivasankar
46. L.Manoharan
47. N.Chandrasekaran
48. P.Sampath Kumar
49. T.Gnanasekar
50. S.Balamurugan
51. T.S.Venkadathiri
52. G.Poyya Mozhi
53. S.G.Palani
54. K.Mani
55. R.Ravi
56. G.Kumar

.. Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari calling for the records of the first respondent relating to the impugned common award, dated 19th March, 2010 passed by the 1st respondent in Industrial Disputes Nos.32/2002 to 38/2002, 40/2002 to 63/2002, 65/2002 to 71/2002, 73/2002 to 87/2002 and 89/2002, quash the same.

For Petitioner : No Appearance

For Respondents : R1 - Labour Court

: Mr.R.Rajaram, for RR - 3 to 56

ORDER

This Writ Petition is filed challenging the award of the Principal Labour Court, Vellore, dated 19.03.2010 made in I.D.Nos.32 of 2002 to 38 of 2002, 40 of 2002 to 63 of 2002, 65 of 2002 to 71 of 2002, 73 of 2002 to 87 of 2002 and 89 of 2002.

2. The brief factual matrix on which the Writ Petition arises is that these workmen were all employed in the petitioner management. While so,

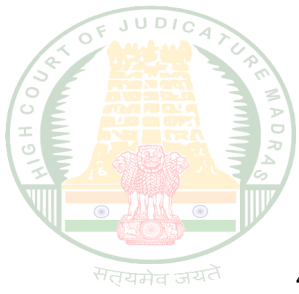


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with effect from 01.06.2000, the management stopped paying salary.
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Thereafter, lay offs were announced and a closure notice was issued on 20.12.2000, from which time onwards, the workmen were permanently non-employed. The workmen raised a dispute aggrieved by their non-employment. The conciliation failed.

3. The Claim Petitions were filed under Section 2A(2) of the Industrial Disputes Act, 1947 which were individually taken on file in the above mentioned numbers and the Claim Petitions were resisted by the management. During the enquiry, on behalf of the workmen, one *R.Govindan*, *S.Swaminathan* and *A.S.Saravanan* were examined as *W.W.1* to *W.W.3* and *Ex.W-1* to *Ex.W-45* were marked. On behalf of the management, one *S.Ramasamy* was examined as *M.W.1* and *Ex.M-1* to *Ex.M-23* were marked.



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4. The Labour Court considered the case of the parties and upon considering the overwhelming evidence by the workmen in the form of the salary being paid to the other workmen, Provident Fund deduction etc., and considering the fact that the activities of the management continued even after the said date, concluded that there was no actual closure and therefore, held that the non-employment of these workmen was bad in law and consequently, granted the relief of reinstatement with continuity of service and payment of 50% of back-wages and other attendant benefits.

5. Pending the Writ Petition, it is seen that the petitioner Company was also thereafter liquidated and an Insolvency Professional was appointed. Therefore, this Court also substituted the said Insolvency Professional to represent the petitioner management. In spite of substitution, firstly, when the Writ Petition is filed by the management, the same should have been brought to the notice of the Insolvency Professional and the Professional himself ought to have decided either to contest the litigation or treat the



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claim of the workmen in accordance with law and disburse the benefits. No such exercise was undertaken. When this Court *suo motu* impleaded the said Insolvency Professional and when he was also informed, thereafter also, neither the Insolvency Professional appeared in person nor any Counsel represented.

6. On the merits of the matter, it can be seen that the Labour Court is right in concluding that the non-employment of the workmen as erroneous in law when the activities of the petitioner management are concluded even after the alleged date of closure. Therefore, no exception whatsoever can be taken for the award of the Labour Court in holding the non-employment as unjustified. Considering the fact that subsequently, the Company itself having been liquidated and the unit also not functioning, at this stage, the relief of reinstatement is not possible and I modify the relief granted by the Labour Court that the workmen will be entitled for 50% of the back-wages alone.



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7. It is stated that of the 50% of the back-wages, 25% of the back-wages was deposited in the Labour Court and the same is lying to the credit of the respective Industrial Disputes. The said 25% of the back-wages, along with the accrued interest, shall be paid out to the respective workmen or to their legal heirs upon production of a copy of this order. In respect of the balance 25%, the workmen can only make a claim under the relevant form and the same shall also be taken as a claim by the liquidator in accordance with law and process the same as per the priority of the claims and if any amount is remaining and is payable, then, the workmen shall also be paid the same.

8. With the above directions, the Writ Petition stands disposed of.

There shall be no order as to costs.

07.01.2025

Neutral Citation : no

grs

<https://www.mhc.tn.gov.in/judis>



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