



W.P.No.25005 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Orders reserved on : 28.01.2025

Orders pronounced on : **26.02.2025**

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.25005 of 2012

M/s.Rambal Limited,
Rep. by its Director (Operations),
No.20, Corporation Road,
Seevaram, Chennai - 600 096.

.. Petitioner

Versus

1. The Inspector of Factories,
Fifth Circle, Inspectorate of Factories,
Bharath Kumar Bhavan,
617, Anna Salai, Chennai - 600 006.

2. Engineering Electronics and General
Workers Union,
(Rambal Workers Union) rep. by its
General Secretary,
VPC House, Plot No.291, First Street,
Burma Colony, Perungudi, Chennai - 600 096. .. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India



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praying for a Writ of Certiorari after calling for the records relating to the order No.A/1133/2011, dated 14.06.2012 issued by the 1st respondent and quash the same as being illegal, arbitrary and unconstitutional, award costs.

For Petitioner : Mr.C.K.Chandrasekhar

For Respondents : Mr.K.Surendran,
Additional Government Pleader,
for R1

: Mr.K.K.Ramsiddhartha,
for M/s.Row & Reddy, for R2

ORDER

This Writ Petition challenges the award of the first respondent, the Inspector of Factories, Fifth Circle, Chennai, made vide order in A/1133/2011, dated 14.06.2012. The order conferred permanent status on 22 workmen from the date of entry into service as mentioned in the Employment State Insurance identity cards, which are expressly mentioned in Column No.9 to the Annexure of the impugned order. The aggrieved management filed the present Writ Petition.



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2. The management is engaged in manufacturing auto components for two-wheelers and four-wheelers. Until 2011, it had an apprenticeship scheme, but, due to losses effective from 02.07.2011, the training program was discontinued. On 28.06.2011, in response to an objection from the trade union, Rambal Workers Union, the first respondent issued a notice to the management. This notice was received on 04.07.2011 for a hearing scheduled on 06.07.2011. No documents were provided to the management. On 18.07.2011, a copy of the petition dated 15.02.2011 was submitted. The management filed its preliminary objections dated 05.08.2011 to the claim, asserting that the training had been stopped on 02.07.2011, well before the receipt of the notice for the hearing.

3. The management contends that the union cannot support the trainees' cause and that copies of the petitions filed by the trainees were not provided to the management. On August 18, 2011, the second respondent



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union filed a statement opposing the management's position. On September 2, 2011, the management submitted a reply. Subsequently, the first respondent issued notices of hearing on September 19, 2011, and December 8, 2011. Again, on December 7, 2011, the management submitted a detailed response to the first respondent, questioning the union's right to raise the claim. The hearing was scheduled for December 21, 2011, but was adjourned to January 20, 2012, and then further postponed to February 8, 2012, without providing copies. Meanwhile, the first respondent visited the factory on January 31, 2012, for an inspection. The first respondent raised several queries and took copies of more than ten documents from the factory. Until February 5, 2012, the management was unable to meet with him.

4. When the management met him on 06.02.2012, he directed them to meet him again on 07.02.2012. On that day, he simply stated that since the management did not meet him by 03.02.2012, he had already sent a show-



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cause notice, and the management had replied with details. He said that he challenged the management that they ultimately must come to him wherever they go. On 08.02.2012, the petitioner unexpectedly received a show-cause notice dated 03.02.2012, consisting of 27 charges alleging violations of the provisions of the Factories Act and other statutes. Allegations were also made that on 15.02.2011, he took a mobile phone to check whether conversations were recorded and threatened further action. Even then, during the subsequent hearings regarding the petitioners, the copies were never provided, and the first respondent proceeded to hold the hearings and ultimately passed the impugned order on 14.06.2012, which was communicated on 16.06.2012. Aggrieved by this, the management is before this Court.

5. The management asserts that the first respondent issued orders with malafide intention because the management did not meet with him as directed. Furthermore, the management contends that after the first



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respondent filed a complaint before the learned Judicial Magistrate, Chengalpattu regarding a violation of the Permanency Act on 14.09.2011, he should not have continued the enquiry, indicating potential bias concerning the matter. Even on the merits of the case, the employees were only trainees and are not entitled to permanency.

6. The Writ Petition is opposed by the first respondent through a counter-affidavit. It states that both the trade union and the workmen submitted petitions for the conferment of permanent status. All copies were duly provided on 18.07.2011 and 02.09.2011, and their receipt has been acknowledged. The inquiry was conducted properly, and after evaluating the evidence, the contested order was issued. Regarding the inspection, it is noted that the Joint Director - IV, Industrial Safety and Health, Chennai, informed the petitioner factory on 16.06.2011 and issued a show-cause notice. Since the violations were not remedied, complaints were filed with the learned Chief Judicial Magistrate, Chengalpattu. After reviewing the



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allegations, the complaints were taken on file as C.C.Nos.73, 74, 75, and 76 of 2012. Except for C.C.No.76 of 2012, which the management contests, in all the other cases, the management pleaded guilty, was convicted, and paid the imposed fines.

7. The orders regarding the permanency of the workers were issued based on the grounds outlined in the order dated 14.06.2012. The petitioner's premises were inspected on different occasions by the authorities, and the details are also provided in paragraph No.10 of the counter-affidavit. It is noted that on two occasions, the Deputy Chief Inspector of Factories, IV Division, inspected the factory on 19.12.2009 and 16.06.2011. On two occasions, the Inspector of Factories, V Circle, inspected the premises on 22.03.2011 and 31.01.2012. The other allegations of bias and mala fide are denied. The details of wages, concerning each of the workers ordered to be made permanent, are also included in the counter-affidavit.

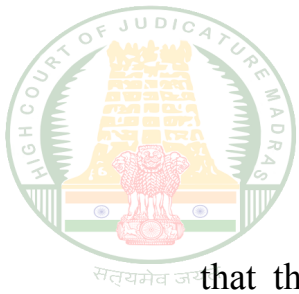


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8. Heard *Mr.C.K.Chandrasekhar*, learned Counsel for the management, *Mr.K.Surendran*, learned Additional Government Pleader for the first respondent and *Mr.K.K.Ramsiddhartha*, learned Counsel for the second respondent/workmen.

9. *Mr.C.K.Chandrasekhar*, learned counsel for the workmen, submits that in this case, it is evident from the conduct of the first respondent in making an inspection and calling the management to meet with him and that the actions were based on extraneous considerations. The first respondent acted with malafide intentions and vindictively took action against the management company. Secondly, by taking this Court through the complaint filed before the learned Chief Judicial Magistrate, Chengalpattu, the learned counsel points out that one of the charges in the complaint is the failure to confer permanent status on these trainees, keeping them as trainees instead. Therefore, the first respondent prejudged the issue and concluded



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that the workmen involved in the matter should be granted permanency.

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Consequently, there was no question of the first respondent deciding the issue, having already reached the conclusion in the capacity of Inspector of Factories conducting an inspection of the petitioner management.

10. Subsequently, he should not have continued with the enquiry in the petition for the conferment of permanent status and decided the issue. Therefore, the impugned order directing the conferment of permanent status is tainted by bias regarding the subject matter. It also involves him judging and ratifying his own findings from the inspection. Consequently, the impugned order cannot stand legal scrutiny as it violates the principles of natural justice. He would argue that later, the factory closed, the workmen were all discharged, and today, the order cannot also be enforced.

11. Per *contra*, Mr.K.Surendran, learned Additional Government Pleader for the first respondent, would produce the records and submit that



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the allegations of malafide made by the petitioner are totally unfounded. The allegation of bias is also incorrect. Inspections were conducted by the Deputy Commissioner of Factories. In fact, regarding the other charges, the management pleaded guilty, and based on that, they were convicted and punished with fines. Therefore, there is no question of any allegations of bias or malafide against the first respondent. The complaint was filed according to the allocation of work, the responsibility for filing the complaint falls on the Inspector of Factories, V Circle. In any event, the impugned order was not issued based on the complaint or the inspection report; it was issued after considering the submissions made by both the workmen and the management.

12. *Mr.K.K.Ramsiddhartha*, learned Counsel for the second respondent/workmen, submits that the objections raised by the petitioner regarding the trade union's ability to espouse the cause are erroneous. The trade union can certainly advocate for the workmen. Furthermore, the

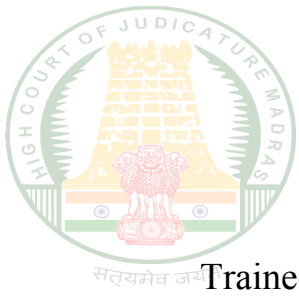


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workmen have also filed individual petitions. Regarding the manner in which the management has categorized each and every workman as a trainee, he contends that the management's actions constitute a wholesale fraud on labour welfare legislation.

13. It can be observed from the various convictions issued by the learned Chief Judicial Magistrate that the current management has violated every aspect of the labour welfare legislation. The workers were initially engaged, and after being enrolled as regular employees, their E.S.I. contributions were deducted for a period before they were labelled as trainees. Demonstrating case by case for each worker, the learned Counsel argues that the management's claims, in this instance, represent widespread unfair practices and are egregious. For example, it is submitted that an employee, *K.Prabhu*, began service on 21.05.2000. The E.S.I Corporation Identity Card, dated 10.12.2002, clearly states the employment date. Despite this, in 2006, the management issued an order treating him as a



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Trainee.
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14. It is mentioned in the said order that they referred to the training letter dated 01.11.2005. It is advised that the employees' training period is extended up to 30.11.2006. Thus, their case is that an employee who entered service in the year 2000 was suddenly classified as a trainee in the year 2005, and the training was extended up to 31.11.2006. Further orders were issued thereafter, stating that the employees' training period was extended for an additional year. Suddenly, on 01.08.2009, it was declared that the employee, upon successful completion of his training period, would progress to probation as 'Operator Trainee' and the employee would be on probation for one year starting from 01.08.2009. On 08.09.2010, another letter was sent indicating that the probation period was extended up to 31.03.2011. On 30.03.2011, the probation period was again extended up to 31.03.2012. It can be observed that this is the same case for each employee.



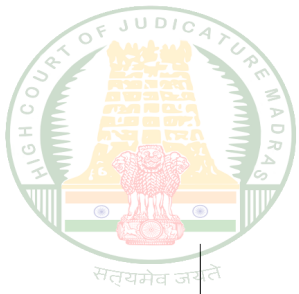
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15. After extracting work for more than five years, the management suddenly chose to designate them as trainees. After continuing them as trainees for five years, the management suddenly put them on probation. The probation was being extended, and under these circumstances, petitions were filed and rightly allowed by the first respondent.

16. The learned Counsel would also rely upon the following judgments:-

S.No.	CITATION	CAUSE TITLE
1	Order, dated 05.11.1997 of the Madras High Court in W.A.Nos.312 & 313/1995	Mamundiraj N. and Ors. and Bharat Heavy Electricals Ltd., Trichy and Anr.
2	2003 (3) LLN 834	Trambak Rubber Industries, Ltd. and Nashik Workers Union and Ors.
3	2004 (3) LLN 598	Superintending Engineer, Vellore Electricity Distribution Circle, Vellore, and Ors. and Inspector of Labour, Perambalur and Ors.
4	Order, dated 28.06.2010 of	The Divisional Manager, Ryan Tea



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	the Madras High Court in W.P.No.209/2006	Division, The Tamil Nadu Tea Plantation Corporation Limited, Valparai Vs. The Inspector of Plantations, Valparai and Anr.
5	(2006) 8 SCC 647	Punjab National Bank and Ors. Vs. Manjeet Singh and Anr.
6	(1996) 4 SCC 104	Election Commissioner of India and Anr. Vs. Dr.Subramaniam Swamy and Anr.

17. I have considered the rival submissions made on either side and perused the material records of the case.

18. Firstly, the petitioner contends in this case that there was no proper inquiry by the first respondent. The individual workmen did not file any statements, and even if they had, the copies were not provided. The records show that the petitions were originally filed by the union on 15.02.2011, and copies of these petitions were served on the petitioner management representative, *Nagaraj*, at the hearing on 27.07.2011. Similarly, the individual workmen filed petitions on 28.06.2011, and the

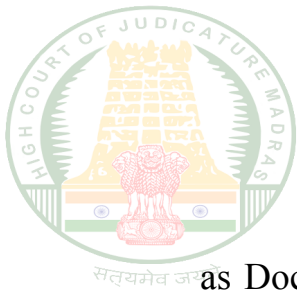


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copies were served on the management representative, *Nagaraj*, on 02.09.2011. Therefore, the contention raised in the affidavit supporting the Writ Petition, as well as by the learned Counsel for the workmen, is factually incorrect and amounts to *suppressio veri* and *suggestio falsi*. Thus, the management's Writ Petition is dismissed on this ground.

19. Secondly, regarding the procedure adopted during the inquiry, it appears that copies of the petitions were duly provided to the management. When the management was directed by the first respondent to produce the orders related to the appointment of workmen, the extension of their services, details regarding their date of employment, Form-25, Attendance Register, Wage Register, Identity Cards, Wage Slips, and specifics about the E.S.I. and P.F. deductions, the petitioner management repeatedly failed to produce these documents. Additionally, it is evident that the workmen were examined individually before the first respondent, and their statements were recorded. Each document submitted by the workmen has also been labelled



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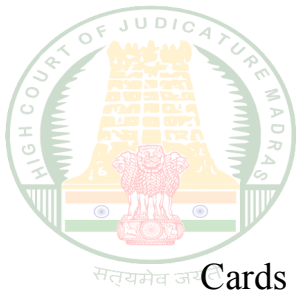
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as Document Nos. 1 to 6, etc. Although the documents were not assigned

consecutive numbers, they were numbered in relation to each workman.

The workmen presented E.S.I. Cards, management's orders regarding their placement as trainees and the extension of services, salary slips, and other available documents. The first respondent also summoned records from the E.S.I. authorities, which were taken into consideration.

20. Per *contra*, the management never cooperated with the inquiry. It did not produce any documents, nor did it choose to present any evidence. Throughout the process, the management consistently adopted an attitude of challenging and obstructing the inquiry. As rightly contended by the learned Counsel for the workmen, when the workmen were appointed in the year 2000, it was merely a subterfuge to evade various lawful obligations of labour welfare legislation. They suddenly decided to classify all these workmen as trainees suddenly in the year 2005, stating that they were under training. There was no intention of treating them as employees. In the E.S.I



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Cards and the information provided to the E.S.I Corporation, no such designation is mentioned.

21. The provisions of the Employees Provident Fund were never followed concerning these workmen. Furthermore, as trainees, the training period was continuously extended until the year 2009. Suddenly, in 2009, the management passed an order stating that upon successful completion of the training period, the workmen would progress to probation. When the workmen successfully completed the training period and progressed to probation, their designation should have been 'Operator'. Even after stating in its own order that they progressed to probation, the management still chose to refer to them as 'Operator Trainees'. Moreover, the probation period was continuously extended under various pretexts until the petitions were filed. These actions by the management are *ex facie* illegal and constitute unfair labour practices. As such, the workmen have demonstrated that they were in continuous service for 480 days within two calendar years.



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The E.S.I details will substantiate this claim. The impugned order also confirms that the workmen completed 480 days. The specifics are provided in detail in the annexure to the impugned order in tabular form. Therefore, the inquiry was conducted thoroughly, allowing sufficient opportunity for management. The evidence was recorded duly appreciated, and the final orders were issued. I conclude that there is no error whatsoever in the inquiry conducted by the fifth respondent.

22. The management's next contention is that a particular officer summoned the management officials to meet him for extraneous reasons, and only because the management did not comply with his request were the orders issued. I reject the management's allegations in this regard because, upon reviewing the criminal complaints filed against them, the claims detailed in the four cases must be considered. A total of 27 violations are mentioned across the four complaints. The management has admitted to most of these, and based on this admission, the Criminal Court convicted the



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management and imposed fines, which they paid. Therefore, when the management presents itself as a wholesale violator of the law, its allegations of malafide cannot be believed and are hence rejected. Furthermore, if malafide is alleged, the concerned officer is not included in his individual capacity in the Writ Petition, which also leads to the rejection of the allegation of malafide.

23. Finally, the learned counsel for the petitioner contends that when a complaint was filed during the inquiry process and the management is prosecuted for violating the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 and the same is on the basis of an inspection, it raises concerns of bias regarding the subject matter, and the inquiry ought not to proceed further. Firstly, it can be seen from the records that the allegation in the criminal complaint concerning the violation of the Act arises from the inspection report dated 16.06.2011. This inspection was conducted by the Deputy Chief Inspector of Factories, IV

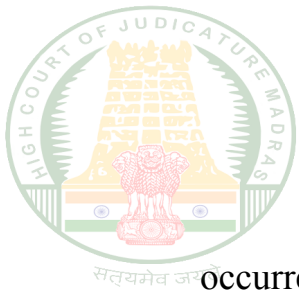


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Division, who signed the inspection report and is not the first respondent herein. Consequently, the show-cause notice dated 04.07.2011 was also issued by that said authority, not by the authority that passed the conferment of permanent status order.

24. The annexure categorically presents four charges, of which charge No. 4 pertains solely to the Act. The explanation provided by the petitioner management was directed only to that authority on 27.07.2011. In fact, the reply statement indicates that the Company's economic situation has worsened due to the strained industrial relations caused by the workers and the union, leading management to discontinue the training program. Currently, there is no training being provided to the trainees. Therefore, Section 3(i) of the Act does not apply to the conferment of 19 workmen. The explanation offered by management was considered by the relevant authority, which issued an order on 22.08.2011 rejecting the explanation and deciding to initiate prosecution. Consequently, the assertion that inspection



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occurred and a decision was made to prosecute the first respondent is factually incorrect, as this was done by a separate authority. The only action taken was when the fifth respondent, designated as the authority to present the complaint, signed and verified it before the Judicial Magistrate in C.C.No.76 of 2012; this was solely due to the allocation of duty, and no personal knowledge or pre-decision can be attributed to the first respondent. Accordingly, the contention put forth by the learned Counsel cannot be accepted in this regard. It would be apt to refer to the Judgment of the Hon'ble Supreme Court of India in ***Delhi Financial Corporation and Anr.***

Vs. Rajiv Anand and Ors.¹ and the relevant portion reads thus:

"9. ... The doctrine that "no man can be a judge in his own cause" can be applied only to cases where the person concerned has a personal interest or has himself already done some act or taken a decision in the matter concerned. Merely because an officer of a corporation is named to be the authority, does not by itself bring into operation the doctrine "no man can be a judge in his own cause". Of course, in individual cases bias may be shown against a particular officer but in the absence of any proof of personal bias or connection merely because officers of a particular corporation are named as the authority does not mean that those officers would be biased."

¹ (2004) 11 SCC 625
<https://www.mhc.tn.gov.in/judis>



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25. Even so, the scheme of the Act must be considered. The Inspector of Factories is granted powers under the Act for both inspection and issuing orders. If the scheme of the Act is read in its entirety, it becomes clear that it is not merely adversarial in nature; rather, the inquiry conducted by the Inspector of Factories is inquisitorial in nature. The Inspector of Factories can not only consider the pleadings of the parties and documents they produce, but can also initiate inquiries and verify the Wage Register, among other facts independently. It can be seen that after conferring permanent status on workmen under Section 3, the Act contemplates appointment of Inspectors under Section 4. The act also enlists the powers and functions in Section 5 and provides the penalty in Section 6. The same are reproduced hereunder :

"5. Power and duties of Inspectors. – Subject to any rules made by the Government in this behalf, the Inspector may, within the local limits for which he is appointed,-- (a) enter at all reasonable times and with such assistants, if any, who are persons in the service of the Government or of any local authority as he thinks fit to take with him, any industrial establishment; (b) make such



examination of the industrial establishment and of any registers, records and notices and take on the spot or elsewhere the evidence of such person as he may deem necessary, for carrying out the purposes of this Act: and (c) exercise such other powers as may be necessary for carrying out the purpose of this Act.

6. Penalties.- (1) Every employer who contravenes the provisions of section 3 shall be punishable with fine which may extend to five thousand rupees and in the case of continuing offence with a further fine which may extend to two hundred rupees for every day after the first during which the offence continues.

(2) Every employer who contravenes the provisions of any rule made under section 10 shall be punishable, for a first offence, with fine which may extend to five hundred rupees, and for a subsequent offence, with fine which may extend to one thousand rupees).

(3) No prosecution for an offence punishable under the section shall be instituted except with the previous sanction of the prescribed authority."

26. Consequently, the act of filing the complaint must be viewed in light of the nature of the jurisdiction conferred on the Inspector of Factories. Carrying out inspections or having the duty to prosecute in cases of violation does not automatically disqualify them from issuing orders in favor of the workmen. Therefore, given the nature of the jurisdiction conferred on the Inspector of Factories, the argument put forth by the learned Counsel for the



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workmen relating to bias as to the subject matter cannot be accepted in this

instance. The argument as to the bias as to the subject matter or that he is

the judge in his own cause has to be considered in this context. The Hon'ble

Supreme Court of India in *Krishnadatt Awasthy Vs. State of M.P. and Ors.*²

, held as follows :

"17. It must be borne in mind that when a statute specifies the procedure for administrative decision making, the principles of natural justice supplement but do not substitute the statutory procedure. However, even if the statute does not provide for the administrative procedure, the authorities are bound to make decisions in adherence to the principles of natural justice.

...

30. It must also be emphasized that the *nemo judex* rule is subject to the rule of necessity and yields to it. In **J Mohapatra v. State of Orissa**, the Court recognized that the doctrine of necessity serves as an exception to the rule against bias. In a matter like this, the doctrine of necessity would also be squarely attracted since the statute explicitly mandates the composition of the selection Committee, as outlined in Schedule II of the Rules. The doctrine of necessity recognizes that decision-making bodies need to function even in circumstances where potential conflicts of interests may arise. Here as earlier noted, the concerned members recused and did not award any marks. It must however be borne in mind that the doctrine of necessity is an exception and must be applied bearing in mind the circumstances in a given case. The size of the jurisdiction must also be taken into account for the application of the

² 2025 SCC OnLine SC 179



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doctrine of necessity. In this regard, Forsyth and Wade H.W.R Wade Administrative Law (5th Edition) have noted that in small jurisdictions, qualified persons may be few in number and likely to be known to the parties..."

(Emphasis supplied)

27. In the matter relating to co-operative societies, where the Registrars issue directions and also remain the adjudicating authority, in ***Registrar, Cooperative Societies Vs. Dharam Chand and Ors.***³, the Hon'ble Constitution Bench of the Supreme Court of India, held as follows :

"5. We fail to appreciate how this general supervision of the Registrar over all cooperative societies can be said to amount to a bias in him so as to disentitle him to act as a Judge or arbitrator under Rule 18. It is not the respondent's case that the Registrar is in any way responsible for the day to day working of the Bank. All that he is concerned with is to see that the accounts of the Bank are audited yearly, and if necessary, to make inspections of the Bank, if so authorised by the Act and the Rules. That, however, does not mean that the Registrar is bound to shield the auditors or his subordinates who might have made the inspection of the Bank and would so conduct the proceedings as to put the blame on the members of the Managing Committee. Even if some blame attaches to the auditors appointed by the Registrar or to his subordinates who might have inspected the Bank, their fault would be that they failed to detect the embezzlement till the paid manager absconded. That,

³ 1961 SCC OnLine SC 104
<https://www.mhc.tn.gov.in/judis>



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however, does not mean that the Registrar was at any time a party to the fraud which resulted in the embezzlement...
."

28. In *Union of India and Ors. Vs. Vipin Kumar Jain and Ors.*⁴,

while considering the fact that the same officer happened to collect certain details, it is held as follows:

"6.... The several sections which have been cited by the appellants would show that the assessing officer has, either directly or by virtue of his appointment or authorisation by a superior authority under the Act, been given the power of gathering information for the purposes of assessment. The mode of gathering such information may vary from the mere issuance of a notice under Section 142 to the more intrusive method of entry and search envisaged under Sections 133-A and 133-B and seizure under Section 132. The appellants are also correct in their submission that in the absence of any challenge to any of these provisions, it was not open to the High Court to have disabled the assessing officer from discharging his statutory functions. What the High Court has done is to read limitations into the Act and to qualify the jurisdiction of the assessing officer and the powers of the authorities empowered to appoint the assessing officer as an authorised officer under Section 132 without any foundation for such conclusion being laid in any manner whatsoever by the writ petitioners."

29. A unique aspect of the decision-making process is mentioned in

⁴ (2005) 9 SCC 579



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the Act. When this occurs during the inquiry, it will not, by itself, prevent

the first respondent from proceeding to issue an order in favour of the workmen. In any case, what is being pleaded is merely an empty formality.

The management engaged in gross violations of the Act. No Court can grant relief to the management that employs these dubious tactics to keep the workmen from receiving the benefits conferred by various labour welfare

legislations. In this regard, it is appropriate to rely on the judgment of the

Hon'ble Supreme Court of India in *Bhilwara Dugdh Utpadak Sahakari*

*Samiti Limited Vs. Vinod Kumar Sharma dead by LRs. and Ors.*⁵ and it is

relevant to extract paragraph Nos. of the said judgment, which reads as

follows:-

"2. In order to avoid their liability under various labour statutes employers are very often resorting to subterfuge by trying to show that their employees are, in fact, the employees of a contractor. It is high time that this subterfuge must come to an end.

3. Labour statutes were meant to protect the employees/workmen because it was realised that the employers and the employees are not on an equal bargaining position. Hence, protection of employees was required so that they may not be exploited. However, this

⁵ (2011) 15 SCC 209



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new technique of subterfuge has been adopted by some employers in recent years in order to deny the rights of the workmen under various labour statutes by showing that the workmen concerned are not their employees but are the employees/workmen of a contractor, or that they are merely daily-wage or short-term or casual employees when in fact they are doing the work of regular employees. This Court cannot countenance such practices any more. Globalisation/liberalisation in the name of growth cannot be at the human cost of exploitation of workers."

(Emphasis supplied)

In view thereof, the contention of the learned Counsel for the management stands rejected.

30. Finally, regarding the relief being sought, the Hon'ble Supreme Court of India, in *Tamil Nadu Medical Services Corporation Limited vs. Tamil Nadu Medical Services Corporation Employees Welfare Union and Anr.*⁶ 2024 SCC OnLine SC 982, determined the specific question concerning the continuation of employees in service. This issue was addressed in paragraph No. 28, which is reproduced below:

"28. The next question to be considered is whether the High Court on remand, could have ignored the order of

⁶ 2024 SCC OnLine SC 982
<https://www.mhc.tn.gov.in/judis>



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the Inspector of Labour and suggested that the employees raise an industrial dispute questioning their non-employment. The reason for remand, as is seen from the judgment dated 10th March, 2016, was that the High Court had not considered that the Act would be applicable to the parties, which were the very same as the parties before us. In other words, the scope of remand was limited. The order of the Inspector of Labour was passed under the Act. Since the High Court concluded that the Act would apply, there was no reason for it to disturb the finding of the Inspector of Labour and, therefore, it ought to have simply ordered that the order of Inspector of Labour which concluded that the members of the respondent-Union be given permanent employment, be complied with. When an issue stands already decided and such decision does not suffer from any vice of authority or jurisdiction then, putting those who enjoy an order in their favour through the wringer once more of having to re-establish their claim, this time before the authority under the Industrial Disputes Act, 1947, would be unjustified."

(Emphasis supplied)

31. Therefore, the Hon'ble Supreme Court of India has now held that merely because there is non-employment, the order or finding of the Inspector of Labour under the Act cannot be dislodged, but it must be complied with. It is further held that when the issue has already been decided, the workmen should not have to re-establish their claim. Therefore, when the workmen were ordered to be made permanent, the management's

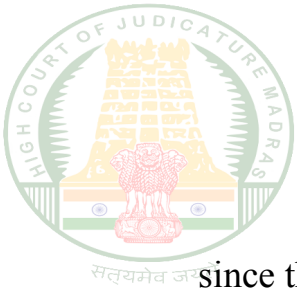


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response that the industry subsequently closed cannot hinder this determination.

32. Even though it is argued before this Court that the unit is now closed, those workmen should not be relegated back to the Labour Court under the Industrial Disputes Act to claim further benefits, as they have not received any closure compensation also. Furthermore, the order of the first respondent has not been complied with. In light of this, this Court considers the period of service put in by the workmen, which ranges between 8 to 11 years. That 14 years have also passed since the disputes arose is also noted. Therefore, instead of relegating of the workmen to file applications under Section 33C(2) for computation and keep them in constant litigation, this Court believes that the workmen are entitled to justice and a remedy for the wrong done by the management, and this remedy should not be illusive by requiring them to approach the Tribunals multiple times. Consequently, considering the extraordinary situation arising from the passage of 14 years

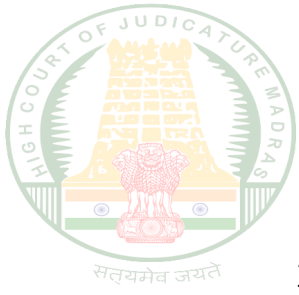


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since the initiation of the dispute, I am of the view that rather than relegating the workmen and the management to further litigation, this Court can itself grant relief under certain terms. Therefore, I conclude that this is an appropriate case to order compensation in lieu of all claims of conferment of permanent status, continuation in service, back wages and closure compensation.

33. Considering the number of years served by the workmen and the amount of wages they were receiving at the time of alleging non-employment, I believe that each of the 22 workmen is entitled to a compensation of Rs. 2,50,000/- each. This amount shall be paid by the petitioner management within twelve weeks from the date of receipt or production of a web copy of this order without waiting for a certified copy. If the amount is not paid within the stated time frame, it shall thereafter be paid with interest at 9% per annum from today.



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34. This Writ Petition stands disposed of. There shall be no order as

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to costs.

26.02.2025

Neutral Citation : yes

grs

To

The Inspector of Factories,
Fifth Circle, Inspectorate of Factories,
Bharath Kumar Bhavan,
617, Anna Salai, Chennai - 600 006.



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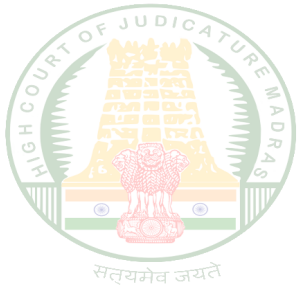


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D.BHARATHA CHAKRAVARTHY, J.

grs

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