



W.P.Nos.7467 and 7448 of 2011 and 27447 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2025

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.7467 and 7448 of 2011 and 27447 of 2012

And

M.P.Nos.1 and 1 of 2011 and 1 of 2012

The Management of
M/s.Vee Jay Tool and Die Pvt. Ltd.,
Maniyakarampalayam,
Coimbatore – 641 022
Rep. by its Managing Director ... Petitioner in W.P.7467/2011

The Management of
M/s.Vee Jay Tool and Die Pvt. Ltd.,
Registered Office at ATT Colony
Coimbatore – 18
Rep. by its Managing Director. ... Petitioner in W.P.7448/2011

C.Balasundaram ... Petitioner in W.P.27447/2012

Vs.

1.The Presiding Officer,
Labour Court,
Coimbatore. ... Respondent in all the W.Ps.

2.P.Udhayakumar
3.K.Rameshkumar
4.A.Sivakumar
5.P.Velusamy
6.S.Chinathamani
7.N.Thangavelu
8.K.Pushpa Kumar ... Respondents in W.P.7467/2011

2.C.Balasundaram ... Respondent in W.P.7448/2011



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2.The Management of
M/s.Vee Jay Tool and Die Pvt. Ltd.,
Registered Office at ATT Colony
Coimbatore – 641 018. ... Respondent in W.P.27447/2012

Prayer in W.P.No.7467 of 2011:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the first respondent in ID Nos.223 to 229 of 2004 and quash its order dated 08.01.2010.

Prayer in W.P.No.7448 of 2011:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the first respondent in ID No.427 of 2003 and quash its order dated 08.01.2010.

Prayer in W.P.No.27447 of 2012:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari by calling for the records from the files of the first respondent in ID No.427 of 2003 and quash its impugned award made therein dated 08.01.2010 insofar as it has denied and negated the claim of the petitioner for full back wages and other attendant and consequential benefits.



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For Petitioner : Mr.W.Aadarsh Levin
for M/s.T.S.Gopalan and Co.
in W.P.Nos.7467 and 7448 of 2011

Mr.K.M.Ramesh
Senior Counsel
for M/s.V.Subramani
in W.P.No.27447 of 2012

For Respondents : R1 – Labour Court
R2 to R8 – No Appearance
in W.P.No.7467 of 2011

R1 – Labour Court
Mr.K.M.Ramesh for R2
Senior Counsel
for M/s.V.Subramani
in W.P.No.7467 of 2011

R1 – Labour Court
Mr.W.Aadarsh Levin for R2
for M/s.T.S.Gopalan and Co.
in W.P.No.27447 of 2012

COMMON ORDER

The writ petitions have been filed seeking issuance of Writ of Certiorari seeking to quash the order dated 08.01.2010 in ID Nos.223 to 229 of 2004, 427 of 2003 and 427 of 2003 respectively.

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



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For brevity, the petitioner in W.P.Nos.7467 and 7448 of 2011 and the second respondent in W.P.No.27447 of 2012 would be hereinafter referred to as 'Management'. The respondents 2 to 8 in W.P.No.7467 of 2011, the second respondent in W.P.No.7448 of 2011 and the petitioner in W.P.No.27447 of 2012 would be hereinafter referred to as 'Employees'.

3.The case of the Management is that the Management is engaged in the manufacture of plastic injection moulding, engineering component and undertakes job work for twisting yarns. Since its order position used to fluctuate depending on the market conditions, the petitioner used to engage casual labour. As the casual labourers are covered under the provisions of EPF & Miscellaneous Provision Act and ESI Act, even if they had worked for a day, the Management used to ensure compliance of the said enactment to the said casual labourer. The workmen of the Management are members of Kovai Mavatta Podhu Thozhilalar Munnettra Sangam (LPF) which was recognized by the petitioner.

4.The further case of the Management is that the Employees are



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the members of LPF and the said union after issuing charter of demands in the year 2000, entered into a settlement under Section 12 (3) of the ID Act on 04.08.2000. Clause 7 of the settlement provided that the Employees would be engaged as an apprentice for a period of three years and their emoluments were also fixed. The Employees while engaged as apprentice were provided with identity card and during the period of training the Employees were given extensive training in all the departments of the Management. On completion of apprenticeship training, they returned the card. When the period of apprenticeship training came to an end, there was no need for additional manpower in the Management and therefore they were not given further training or probationary employment in the Management.

5.The further case of the Management is that the Employees challenged their cessation of apprenticeship by raising industrial disputes before the Labour Court. The Labour Court, in I.D.No.227 of 2004 directed the Management to pay a sum of Rs.50,000/- to the second petitioner therein/ legal representative of the deceased first petitioner therein who is one of the Employee; and in other I.Ds., directed the Management to reinstate the Employees in service with



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continuity of service and to pay a sum of Rs.25,000/- each as backwages. Aggrieved by the same, the Management has filed W.P.Nos.7467 and 7448 of 2011.

6.Since full backwages was not granted and other attendant and consequential benefits is vitiated, one of the Employees/ petitioner in ID No.427 of 2003 has filed W.P.No.27447 of 2012.

7.The learned counsel appearing for the Management submitted that the Employees are not permanent employees and they were engaged as casual labourers. The learned counsel further submitted that even during the training period they were not treated as permanent employees and they were treated as casual labourers, however, they raised industrial disputes before the Labour Court alleging that they have worked as regular workers for more than 240 days in a calender year, however, they were terminated and the Labour Court instead of dismissing the said industrial disputes, ordered for reinstatement, which is not sustainable one.

8.The learned Senior Counsel appearing for one of the Employees/ petitioner in W.P.No.27447 of 2012 [ID No.427 of 2003]



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submitted that the Employee worked in the Management for more than ten years. Even as per Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act 1981, if a person is in continuous service for 480 days in two Calender years, he is entitled to be absorbed as permanent employee. In the present case, the Employee has worked for more than ten years and hence the Labour Court directed the Management to reinstate the Employees in service with continuity of service and to pay a sum of Rs.25,000/- each as backwages, however, the Labour Court did not award full backwages.

9.Though the name of the respondents 2 to 8 in W.P.No.7467 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.

10.Admittedly, the Employees raised industrial dispute on the ground that they were continuously employed in the Management for for more than 240 days in a calender year. The Management claim that the Employees were only contract labourers. The Employees



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claim that after completion of training, they ought to have been given permanent status and hence they are entitled for reinstatement.

11.The Labour Court has ordered for reinstatement in service with continuity of service and to pay a sum of Rs.25,000/- each as backwages except in I.D.No.227 of 2004, where the Labour Court directed the Management to pay a sum of Rs.50,000/- to the second petitioner therein/ legal representative of first petitioner therein since the first petitioner therein/ one of the Employee has died. However, 15 years have passed after passing of the impugned order. Hence, ordering reinstatement with or without backwages may not be useful for the parties and after a lapse of 15 years, the same amount cannot be considered. Hence, inorder to strike the balance between the parties, compensation instead of reinstatement would be appropriate.

12.It is useful to extract hereunder the relevant portion of the decision of the Hon'ble Apex Court reported in (2010) 6 SCC 773 ***[Senior Superintendent Telegraph (Traffic) Bhopal Vs. Santosh Kumar Seal and Ors.]***:

"10. In a recent judgment authored by one of us (R.M. Lodha, J.) in Jagbir Singh v. Haryana State



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Agriculture Mktg. Board [(2009) 15 SCC 327 : (2010) 1 SCC (L&S) 545] , the aforesaid decisions were noticed and it was stated: (SCC pp. 330 & 335, paras 7 & 14)

"7.It is true that the earlier view of this Court articulated in many decisions reflected the legal position that if the termination of an employee was found to be illegal, the relief of reinstatement with full back wages would ordinarily follow. However, in recent past, there has been a shift in the legal position and in a long line of cases, this Court has consistently taken the view that relief by way of reinstatement with back wages is not automatic and may be wholly inappropriate in a given fact situation even though the termination of an employee is in contravention of the prescribed procedure. Compensation instead of reinstatement has been held to meet the ends of justice.

14. It would be, thus, seen that by a catena of decisions in recent time, this Court has clearly laid down that an order of retrenchment passed in violation of Section 25-F although may be set aside but an award of reinstatement should not, however, be automatically passed. The award of reinstatement with full back wages in a case



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where the workman has completed 240 days of work in a year preceding the date of termination, particularly, daily wagers has not been found to be proper by this Court and instead compensation has been awarded. This Court has distinguished between a daily wager who does not hold a post and a permanent employee."

11. *In view of the aforesaid legal position and the fact that the workmen were engaged as daily wagers about 25 years back and they worked hardly for 2 or 3 years, relief of reinstatement and back wages to them cannot be said to be justified and instead monetary compensation would subserve the ends of justice. In our considered view, the compensation of Rs 40,000 to each of the workmen (Respondents 1 to 14) shall meet the ends of justice. We order accordingly. Such payment shall be made within 6 weeks from today, failing which the same shall carry interest at the rate of 9% per annum."*

13. In the considered opinion of this Court, the compensation of Rs.1,00,000 each to the Employees shall meet the ends of justice. This Court directs the Management to pay a sum of Rs.1 Lakh each in full quit to the Employees/ respondents 2 to 8 in W.P.No.7467 of 2011 and the second respondent in W.P.No.7448 of 2011/ petitioner in



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W.P.No.27447 of 2012 and the said amount shall be deposited to the credit of ID Nos.223 to 229 of 2004, 427 of 2003 on the file of the Presiding Officer, Labour Court, Coimbatore, within a period of eight weeks from the date of receipt of a copy of this order, failing which, the Management would be liable to pay interest at the rate of 7.5%p.a., from the date of writ petitions in W.P.Nos.7467 and 7448 of 2011 till the date of deposit. On such deposit being made by the Management, the Labour Court shall disburse the said amount to the Employees/ respondents 2 to 8 in W.P.No.7467 of 2011 and the second respondent in W.P.No.7448 of 2011, within a period of two weeks thereafter.

14.The writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

03.02.2025

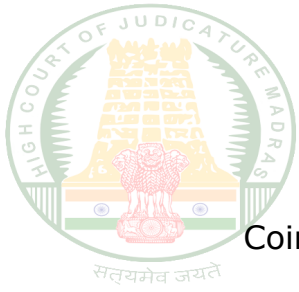
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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

1.The Presiding Officer,
Labour Court,

11/12



Coimbatore.

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M.DHANDAPANI,J.
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**W.P.Nos.7467 and 7448 of
2011 and 27447 of 2012
And
M.P.Nos.1 and 1 of
2011 and 1 of 2012**

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