



W.P.No.32859 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2025

CORAM :

THE HONOURABLE MR. JUSTICE **M.DHANDAPANI**

W.P.No.32859 of 2012

and

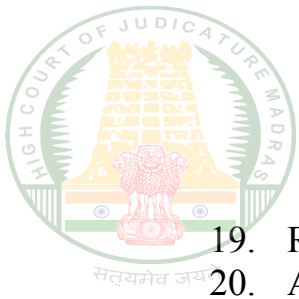
MP.Nos.1 & 2 of 2012

Cooper Bussman India Pvt. Ltd.,
No.2, E.V.R. Street, Sedarapet,
Puducherry – 605 111.

...Petitioner

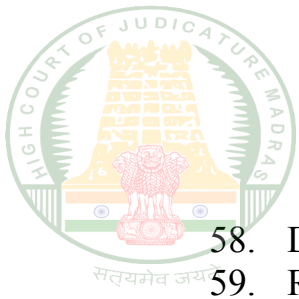
Vs.

1. The Presiding Officer,
Labour Court, (II Additional District and Sessions Court),
Puducherry.
2. P.Sudhakar
3. Mary Alice Nirmal Suganthi
4. A.Josephine Mary
5. MK.Manimegalai
6. S.Mageswari
7. R.Seetha
8. K.Punitha
9. E.Kumaravel
10. R.Rajalakshmi
11. A.Sivagami
12. S.Nandgopal
13. J.Fathima
14. L.Muthulakshmi
15. P.Valli
16. P.Ulaganayagi
17. N.Govindammal
18. P.Sumathi



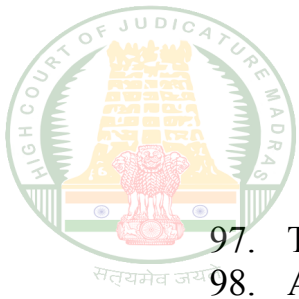
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19. R.Meena
20. A.Ratna
21. M.Murugan
22. P.Vijayalakshmi
23. G.Vijayalalitha
24. G.Mala
25. D.Kumaravel
26. T.Senthilkumar
27. R.Ayyappan
28. S.Vijayakumar
29. V.Kuppusamy
30. S.Kumar
31. B.Lakshmi
32. B.Kadjabady
33. R.Natarajan
34. M.Rajendrian
35. S.Gunasekaran
36. D.Sivaraj
37. D.Ravi
38. R.Kumar
39. E.Anitha
40. P.Mageshwari
41. S.Ramesh
42. M.Balamurugan
43. R.Moorthy
44. N.Alavandar
45. S.Sakthivel
46. K.Shivashsnkari
47. J.Narayanan
48. A.Sheela
49. M.Padma
50. M.Sivakumar
51. S.Ayanar
52. M.Uthirakaramoorthi
53. S.Leela
54. M.Rajeswari
55. P.Tamilselvi
56. A.Sudha
57. T.Lingammal



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58. D.Rajeshkumar
59. R.Muthukumaran
60. E.Krishnamurthy
61. K.Narayanasamy
62. K.Seeta
63. T.Subhashini
64. Karthikeyan
65. V.Dakshinamurthy
66. J.Jayasri
67. A.Natarajan
68. S.Peter
69. Selvakumar
70. Nirmala
71. Kalaivani
72. K.Ramesh
73. Sathya
74. Renuga
75. Senthilkumar
76. R.Kirushnaraj
77. A.Rajiv Gandhi
78. Babu
79. A.Periyanayagam
80. V.Gomedhagan
81. MM.Sivakumar
82. Sarasu
83. Sangeetha
84. S.Sakthivel
85. Manibalan
86. M.Ananthi
87. P.Venmathy
88. P.Ashokkumar
89. Antony Charles
90. D.Malathi
91. B.Ramamoorthi
92. E.Saravanan
93. A.Silambarasan
94. A.Suresh
95. P.Deepa
96. E.Jayanthi



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97. T.Kumaresan
98. A.Venkatesan
99. M.Vijayakumar
100. R.Ganeshkumar
101. J.Senthilmurugan
102. T.Shyamsundar
103. D.Bharathiraja
104. E.Rishikumar
105. Y.Victor John
106. A.Arumugam
107. N.Rajesh
108. J.Elumalai
109. S.Vassantha Kumar
110. S.Archunan
111. V.Sanjeevi
112. V.Manikam
113. S.Danasekaran
114. P.Geetha
115. E.Raja
116. P.Rajiv Gandhi
117. R.Ravi
118. N.Thirumal
119. R.Kanaldoss
120. M.Rajendiran
121. P.Manikandan
122. N.Dakshina Moorthy
123. A.Selvam
124. K.Karthikeyan
125. R.Venkadakrishnan
126. N.Sarala
127. C.Murugaveni
128. S.Vengadesan
129. S.Parthipan
130. V.Muruyaiyan
131. A.Suresh

...Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records and quash



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the order dated 29.11.2012 passed in I.A.No.93 of 2012 in C.P.No.8 of 2011 on the file of the 1st respondent, Presiding Officer, Labour Court (II Additional District & Sessions Court), Puducherry.

For Petitioner : Mr.A.Venkatesh Kumar
for M/s. Gupta and Ravi

For Respondents : R1 – Court
Mr.P.R.Thiruneelakandan, for R2 to 131

ORDER

This Writ Petition has been filed seeking quashment of the order dated 29.11.2012 passed in I.A.No.93 of 2012 in C.P.No.8 of 2011 on the file of the 1st respondent/Labour Court.

2. It is the case of the petitioner that it is a company incorporated under the Companies Act, 1956 and is engaged in the manufacture of Electric fuse. The terms and conditions of service of the workmen employed in the petitioner factory at Puducherry is governed by periodical settlements entered into between the petitioner and the Union, representing the Workmen. Originally, a settlement under Section 12(3) of the Industrial Disputes Act was signed on 23.01.2008 between the petitioner and Cooper busman Workers Union and the said settlement was in force for a period of three years, from 01.01.2008 till 31.12.2010



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and after expiry of the said settlement, another settlement was entered into between the parties. The Settlements entered into between the petitioner and the unions exhaustively prescribes the salary and other allowances payable to the Workmen, the benefits which they are entitled to and the work norms which they have to fulfill. Whiles, alleging that they were made to work for more than eight hours in a day and 48 hours in a week without payment of overtime wages, the respondents 2 to 131 (hereinafter referred to as 'Workmen') filed a computation petition under Section 33(C)(2) of the Industrial Disputes Act in C.P.No.8 of 2011 claiming a sum of Rs.1,06,34,470/-, in which the 2nd respondent/workman examined himself as PW1, as a common witness and also sought to mark three documents. On behalf of the Petitioner-management, the 2nd respondent/workman was also cross examined. After cross examination, the workmen filed an application in IA.No.93 of 2012 to summon the employer, namely the Managing Director or any other Manager of the petitioner management for the purpose of examination by the workmen so as to enable to get proper adjudication. The Labour Court, vide order dated 29.11.2012, directed the petitioner establishment to produce any of the representative of the petitioner management to give evidence. Aggrieved by the same, the present Writ petition has been filed.



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WEB COPY 3. Learned counsel for the petitioner submitted that it is for the workmen to establish the fact that there was an pre-existing right which was not paid by the petitioner management. If such a plea was established before the Labour Court, the Labour Court may pass appropriate orders in favour of the workmen. In the present case already the 2nd respondent/workman examined himself as a common witness (PW1) and he was also cross examined on the side of the petitioner Management. Thereafter the present I.A. has been filed compelling the petitioner management to give evidence, in which the present impugned order came to be passed, which is not sustainable as the Labour Court cannot force the management to give evidence.

4. Per contra, the learned counsel appearing on behalf of the respondents 2 to 131/workmen submitted that the workmen do not possess any document and all those documents are available only with petitioner management with regard to their entitlement. Thereby, the workmen filed an application for summoning the Managing Director or any other competent witness of the petitioner management before the Labour Court to let in evidence, which was rightly appreciated by the



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Labour Court and the same was allowed in part, vide impugned order and the same cannot be said to be erroneous. Accordingly, he prayed for dismissal of this Writ petition.

5. Heard learned counsel on either side and perused the materials available on record.

6. The respondents 2 to 131/workmen herein filed a computation petition under section 33(C)(2) of the Industrial Disputes Act, in which the 2nd respondent examined himself as PW1 (common witness) and after the Workmen evidence is over, the petitioner Management completed the cross examination of the 2nd respondent/workman. Thereafter, the workmen filed an application in I.A.No.93 of 2012 solely for the purpose of summoning the Managing Director/Manager of the petitioner management to let in evidence and to cross examine on behalf of the workmen in order to prove their claim.

7. In a claim petition, the burden of proof lies on the workmen to prove their claim by letting proper oral and documentary evidence and they cannot compel the Management to let in evidence in favour of their



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claim. It is the discretion of the Management either to let in evidence, either oral or documentary and they cannot be compelled to do so. Such a plea taken by the workmen is unsustainable and the Trial court, without considering these aspects in proper perspective and without any detailed discussion, has passed the present impugned single line order directing the petitioner management to give evidence which is wholly unsustainable.

8. In view of the above, the order of the 1st respondent dated 29.11.2012 made in I.A.No.93 of 2012 is set aside and the 1st respondent is directed to decide the main computation petition in C.P.No.8 of 2011 on merits and in accordance with law based on the materials available on record and pass appropriate orders within a period of twelve (12) weeks from the date of a copy of this order, after affording an opportunity of personal hearing to the petitioner and the workmen herein.

9. With the above observations and directions, this Writ petition stands allowed. No costs. Consequently, the connected miscellaneous petitions are closed.



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Index : Yes / No
Speaking order : Yes / No
NCC : Yes / No

To

The Presiding Officer,
Labour Court,
(II Additional District and Sessions Court),
Puducherry.

M.DHANDAPANI, J.

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