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W.P.No.33280 of 2012

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 03.03.2025**

**CORAM**

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

**W.P.No.33280 of 2012  
and M.P.No.1 of 2012**

The Management of  
Arignar Anna T.R.Pattinam Agricultural  
Co-operative Bank Limited,  
F 116, T.R.Pattinam,  
Karaikkal.

... Petitioner

Vs.

1.The Presiding Officer,  
Labour Court,  
Karaikal.

2.S.Ramadoss

... Respondents

**PRAYER :** Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records connected with the award dated 13.06.2012 made in I.D.No.3 of 2008 on the file of the first respondent, namely, the Labour Court, Karaikal.



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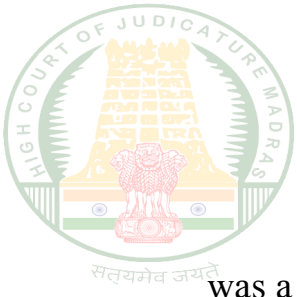
For Petitioner : Mr.Sai Prasad  
for M/s.Sai Raaj Associates

For Respondents : R1-Court  
Mr.V.Govardhanan  
for M/s.Row and Reddy for R2

### ORDER

Aggrieved by the order of the Labour Court directing reinstatement of the workman along with 25% backwages, the petitioner has preferred the present petition.

2. It is the case of the petitioner that the 2<sup>nd</sup> respondent was engaged on temporary daily wage basis as a peon and during the said engagement the 2<sup>nd</sup> respondent used to frequently abstain from work unauthorisedly. Since the petitioner bank was incurring losses from the year 2004, towards curtailing expenses, the petitioner took very many steps and as a part of its efforts to curb the expenses, the 2<sup>nd</sup> respondent decided to discontinue the temporary engaged employees and, accordingly, the 2<sup>nd</sup> respondent, who



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was a temporary workman was informed vide order dated 31.1.2007 that his services were no longer required and he was terminated from service by paying one month's salary in lieu of notice.

3. Aggrieved by the said termination, the 2<sup>nd</sup> respondent resorted to conciliation proceedings and upon failure of the same, the workman raised a dispute before the 1<sup>st</sup> respondent in ID No.3/2008 by filing a claim statement that while he was paid Rs.90/- per day, the said wages was arbitrarily reduced to Rs.60/- per day and it was further alleged that as against the said reduction, the 2<sup>nd</sup> respondent raised a dispute before the Labour Officer which was fixed for hearing, but pending the hearing, the petitioner terminated the workman from service on 31.1.07.

4. Before the Labour Court, the workman examined P.W.s 1 and 2 and marked Exs.P-1 to P-17. On behalf of the petitioner, R.W.1 was examined and Exs.M-1 to M-7 were marked. The Labour Court, upon analysis of the oral and documentary evidence held that the said evidences reveal that the



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workman was a permanent employee and not a temporary employee and, therefore, negatived the contention of the petitioner that Section 25-F of the Industrial Disputes Act is not applicable. The Labour Court further held that even otherwise, the procedure contemplated for retrenchment has not been followed and, therefore, set aside the order of termination and directed reinstatement along with 25% backwages, aggrieved by which the present petition has been filed.

5. Learned counsel appearing for the petitioner submitted that the Labour Court erred in holding that the workman is not on temporary basis as the workman has not placed any materials to prove that he had completed 240 days in a year in the employment and, therefore the provisions of Section 25-F would not stand attracted.

6. It is the further submission of the learned counsel that merely because the temporary workman was provided with 12 days casual leave in year, the Labour Court erroneously concluded that the workman could not



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be construed as a temporary employee, as the workman, in his evidence has categorically admitted that he was engaged on temporary basis.

7. It is the further submission of the learned counsel that the non-employment of any other person in the place of the 2<sup>nd</sup> respondent clearly portrays the condition of the petitioner's economic crisis, which has not been properly appreciated by the Labour Court while appreciating the evidence and the reason for the termination of the 2<sup>nd</sup> respondent.

8. It is the further submission of the learned counsel that the services of the 2<sup>nd</sup> respondent was only temporary and he had been paid one month's wages in lieu of notice, which has not been disputed, however, the Labour Court failed to see that the return of the cheque after nearly four months by the workman to hold that one month's pay has not been given, which is contravention of the provision, is grossly erroneous.



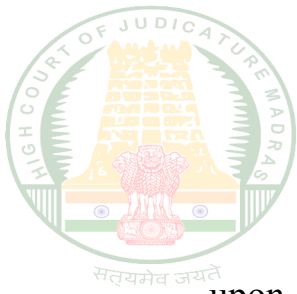
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9. It is the further submission of the learned counsel that without

admitting, even if the 2<sup>nd</sup> respondent is to be taken back on reinstatement, he can only be taken as a temporary employee and cannot be treated to be a permanent employee, which fact has been lost sight of by the Labour Court while ordering reinstatement with backwages. Hence, he prays that this Court may pass appropriate orders by interfering with the orders passed by the Labour Court.

10. Per contra, learned counsel appearing for the 2<sup>nd</sup> respondent submitted that the Labour Court has analysed all the documents in proper perspective and had come to the definitive conclusion that the 2<sup>nd</sup> respondent is not a temporary employee, as the petitioner failed to establish the same and that only with regard to the reduction in daily wages, which has been challenged by the workman by raising a dispute, the present act of termination had come to be passed and rightly appreciating the same, the Labour Court has ordered reinstatement, which need not be interfered with. However, it is further submitted by the learned counsel for the workman,



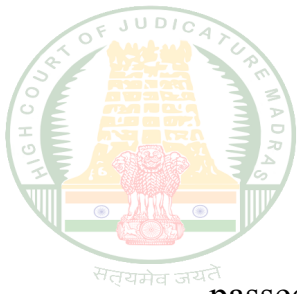
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upon instructions that the 2<sup>nd</sup> respondent will be happy if he is reinstated into service as per the by-laws of the petitioner and whatever wage that is applicable to a daily rated employee, as on date, and so received by the said employee, if the same is paid to the 2<sup>nd</sup> respondent, the 2<sup>nd</sup> respondent would be happy and insofar as regularisation is concerned, the 2<sup>nd</sup> respondent may be granted liberty to work out his remedy in accordance with law.

11. This Court gave its careful consideration to the contentions advanced by the learned counsel on either side and perused the materials available on record.

12. A careful perusal of the order passed by the Labour Court reveals that based on certain oral and documentary evidence, which had emanated from the mouth of R.W.1 and the casual leave granted to an employee, as evidenced through the counter statement of the petitioner, the Labour Court has come to the conclusion that the order of termination



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passed by the petitioner against the 2<sup>nd</sup> respondent is erroneous as the employment of the 2<sup>nd</sup> respondent could be only be termed to be permanent and, therefore, it will attract the provisions of the Industrial Disputes Act and termination has to be only in accordance with the said provisions. Holding so, the Labour Court had directed reinstatement along with 25% backwages.

13. This Court went through the materials and finds that the analysis of the documents and the findings arrived at by the Labour Court with regard to the employability of the workman cannot be held to be unreasonable or perverse. However, it is also to be noted that there is an admission by the 2<sup>nd</sup> respondent that he was employed on temporary basis, which also cannot be lost sight of by this Court. In such a scenario, this Court is required to balance the materials on either side while giving relief, which alone would render substantial justice to both the sides.

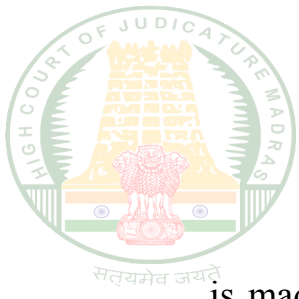


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14. In this regard, the workman/2<sup>nd</sup> respondent has restricted his claim that he would be happy if he is reinstated in service as per the by-laws of the petitioner and he may be paid the daily wages as is applicable to a daily rated employee in the present day and he may be paid the said wages on daily basis upon reinstatement. In view of the fair stand taken by the learned counsel for the workman and also considering the fact that the petitioner has also raised a ground that it at all this Court is inclined to approve the order passed by the Labour Court, the workman could only be employed on temporary basis and cannot be given regular employment.

15. Considering the stand taken by either side, to balance the scales of justice so that none of the parties to the *lis* are aggrieved, this Court is inclined to dispose of the writ petition by modifying the order passed by the Labour Court by directing the petitioner to reinstate the 2<sup>nd</sup> respondent/workman in service on daily wage basis and pay the daily wage as is being paid to the daily rated employees, in the present day scenario. It



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is made clear that the 2<sup>nd</sup> respondent would not be entitled for backwages by adopting the ration of 'No work, No pay'. However, liberty is granted to the 2<sup>nd</sup> respondent to work out his remedy in accordance with law for seeking regularisation of his service with the petitioner.

16. The writ petition is disposed of with the aforesaid observations and directions. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

**03.03.2025**

NCC: Yes / No  
Index : Yes / No  
Speaking Order : Yes / No  
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To  
The Presiding Officer,  
Labour Court,  
Karaikal.



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**M.DHANDAPANI, J.**

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