



W.P.Nos.33376 of 2012 & 11413 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.02.2025

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.Nos.33376 of 2012 & 11413 of 2018

and

M.P.No.1 of 2012 & W.M.P.Nos.13325 of 2018 and 17703, 22281 & 22287 of 2019

The Management of
Soundararaja Mills Ltd.,
Nedungadu,
Karaikal – 606 603.

... Petitioner in both WPs

Vs.

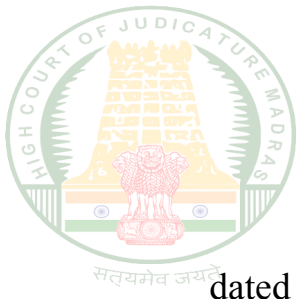
1.The Presiding Officer,
Labour Court,
Karaikal.

2.S.R.Rajendran

... Respondents in both WPs

Prayer in W.P.No.33376 of 2012 : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records on the file of the 1st respondent in its order dated 03.02.2012 made in I.A.No.622 of 2004 in I.D.No.7 of 2004 and quash the same.

Prayer in W.P.No.11413 of 2018 : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of the 1st respondent in C.P.No.10 of 2012 and quash its order



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dated 07.12.2017.

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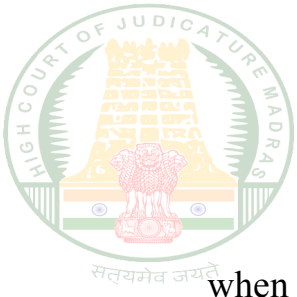
For Petitioner : Mr.P.Raghunathan
(in both WPs) for M/s.T.S.Gopalan & Co.
For Respondents : Labour Court [R1]
(in both WPs) Mr.D.Gubendragunabalan [R2]

COMMON ORDER

Since the issue involved is one and the same, the parties are also the same, both the writ petitions are disposed of by way of this common order.

2. For the ease of convenience, the parties are referred to as 'management' and 'workman'.

3. The workman was working as bale breaker attender in the blow room of the management. He was exhibiting a defiant attitude and he was infact issued letters of warning, visited with punishment of imposing fines, suspended on various occasions for acts of misconduct. Inspite of the punishment issued to the workman, he was exhibiting a callous attitude and his conduct was unbecoming of an employee. Thereafter,



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when the promotion of the 2nd respondent came up for consideration, taking into account his conduct on past, he was denied promotion. Aggrieved against the denial of promotion, Nedungadu Soundararaja Mills Employees Union affiliated with CITU, purporting to espouse the cause of workman raised a industrial dispute in I.D.No.7 of 2004 on the file of the Labour Court, Karaikal and the said dispute was transferred to the Labour Court, Puducherry and renumbered as I.D.No.37 of 2012.

3.1. Thereafter, during the second shift on 30.09.2003, the workmen was careless and negligent in his work and ran the machine by removing the cover of the conveyor willfully and as a result, the production as well the quality of the cotton laps were affected. When the workman was questioned by one G.Maruthuvanan, Maistry and subsequently by the supervisor R.Krishnamoorthy, he misbehaved by using impolite and abusive language and intimated and threatened them. He also disobeyed the instruction which constitute various serious and grave acts of misconducts u/s 17(3)(a), 17(3)(j), 17(3)(k) and 17(3)(o) of the certified standing order of the management. Therefore, on a complaint from the said G.Maruthuvanan and subsequently by a co-worker



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N.Elango, the workman was served with show cause notice dated 30.09.2003. He offered his explanation on 02.10.2003 which was not satisfactory. Therefore, the full-fledged enquiry was conducted by issuing notice dated 08.10.2013 in advance by an independent outside lawyer. On 11.10.2003, in accordance with the principles of natural justice, an enquiry was conducted and the respondent also fully participated in the enquiry. Thereafter, he was dismissed from service vide order dated 23.10.2004 and pending I.D., the management has filed a petition u/s 33(2)(b) of the Industrial Disputes Act, 1947 (in short 'the ID Act') before the labour court in I.A.No.622 of 2004 in I.D.No.7 of 2004 and the same was rejected vide, impugned order dated 03.02.2012. Challenging the same, the management has filed W.P.No.33376 of 2016.

3.2. Subsequently, the workman has filed a claim petition u/s 33(C)(2) of the ID Act in C.P.No.10 of 2012 to direct the management to pay the petition claimed amount of wages to the workman for the period from October 2003 to September 2012 to the tune of Rs.8,79,491/-, as the workman is having pre-existing right to receive the same and the labour court, vide impugned order dated 07.12.2017, has partly allowed the

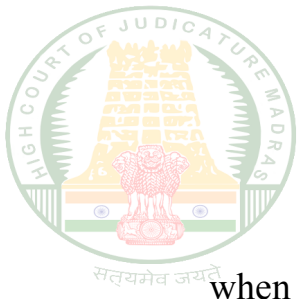


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petition, directing the management to pay the wages to the tune of Rs.6,81,486/- to the workman for the period from October 2004 till the date of filing of the claim petition. Challenging the same, the management has filed another writ petition in W.P.No.11413 of 2018.

4. Learned counsel for the petitioner submitted that though there is no bar for independent lawyer to act as enquiry officer on behalf of the management, even assuming that the very same independent enquiry officer appeared on behalf of the management in the similar proceedings, in the conciliation proceedings pending before the conciliation officer, he appeared on behalf of the management, even then there is no bar for being acted as a enquiry officer, however, the same was drawn as adverse inference as against the management and held in favour of the workman, which is not sustainable. Further, he submitted that there is no enquiry pending before the conciliation officer and the conciliation proceedings was already over and thereafter, the management has filed approval petition, which itself is not sustainable and the labour court can hold that the approval petition is not maintainable and the same may be closed as against the management. Even then, the approval petition was entertained



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when there is no conciliation proceeding in between the parties and passed the order as against the management and dismissed the approval petition, which is not sustainable.

5. Further, he submitted that the workman was reinstated into service in the year 2020 and though he was out of employment from 2003 to 2020, he filed the claim petition claiming wages for the period from 2003 to 2012. As per the orders of this Court, the management has deposited a sum of Rs.3,40,743/- before the Labour Court, Puducherry on 1.6.2018. Accordingly, he prays for appropriate orders. In support of his contentions, he relied upon the judgment reported in *AIR 1955 SC 62*.

6. Learned counsel appearing for the 2nd respondent/workman submitted that on proper consideration of all the materials placed before it, the labour court has passed the impugned orders, which is perfectly in order and the same does not require any interference. Accordingly, he prays for dismissal of these writ petitions.

7. Heard the learned counsel appearing for the parties and also



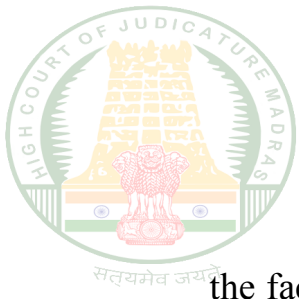
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perused the materials available on record.

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8. Admittedly, for the alleged misconduct, the management has initiated disciplinary proceedings by appointing enquiry officer. The enquiry officer appointed by the management is none other than their own advocate and the very same advocate appeared as against the workman and he drawn a proven minute as against the workman. The said issue was considered by the labour court in the approval petition filed by the management and arrived at a conclusion that there is no fair enquiry proceedings and even the prima facie case is not established. Such a finding rendered by the labour court cannot be said to be illegal or perverse. Hence, this Court is not inclined to interfere with the same and the writ petition in W.P.No.33376 of 2012 is liable to be dismissed.

9. Now, coming to the question of wages awarded by the labour court in the claim petition, it is seen that the approval petition filed by the management was rejected, even thereafter, the management has not paid wages to the workman, thereby, he filed a claim petition before the labour court claiming wages from October 2003 to September 2012. Considering



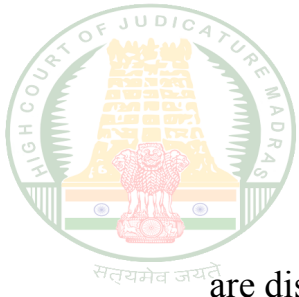
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the fact that the workman was dismissed from service on 23.10.2004 and he has not filed any documents with regard to C.L., E.L., festival holiday wages and bonus at the rate of 8.33%, the labour court vide impugned order 07.12.2017, had arrived at a conclusion that the workman is entitled only for the wages from October 2004 till the date of filing of the claim petition to the tune of Rs.6,81,486/-, which is perfectly in order and the same does not require any interference.

10. It is seen from the records that as per the direction issued by this Court, the petitioner/management has deposited 50% of the wages ordered by the labour court in C.P.No.10 of 2012, i.e., Rs.3,40,743/- before the Labour Court, Puducherry and therefore, the workman is permitted to withdraw the same. Further, the petitioner/management is directed to pay the balance amount of Rs.3,40,743/- without any interest, by way of Demand Draft, to the workman, within a period of four (4) weeks from the date of receipt of a copy of this order.

11. With the above observations and directions, these writ petitions



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are dismissed. No costs.

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Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
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To

The Presiding Officer,
Labour Court,
Karaikal.



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M.DHANDAPANI, J.

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