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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2025

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.30597 of 2015

and

M.P.No.1 of 2015 & W.M.P.No.3344 of 2020

and

Review Application No.16 of 2022

The Management of Yazaki Wiring Technologies Pvt. Ltd.,
D-7, Industrial Estate, Maraimalai Nagar,
Kacheepuram Dt – 603 209,
Rep. By its Chief Financial Officer ... Petitioner

Vs.

1.Presiding Officer,
The Second Additional Labour Court,
Chennai.

2.D.Senthil Kumar ... Respondents

Prayer : 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 I.D.No.75 of 2008, quash the award dated 29.1.2015.

For Petitioner : Mr.P.Raghunathan
for M/s.T.S.Gopalan & Co.

For Respondents : Labour Court [R1]
Mr.R.Anand Kumar [R2]



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ORDER

This Writ Petition has been filed by the petitioner seeking quashment of the award passed by the 1st respondent in I.D.No.75 of 2008, dated 29.1.2015.

2. The case of the petitioner is that, it is a company engaged in the manufacture of Auto Cutting Crimping Machine. The 2nd respondent was working as operator of a sophisticated machine called KOMAX 3 in the petitioner company. On 10.09.2005, the Senior Manager – Production, after verifying the monitoring board, found that the output level of the 2nd respondent to be very low. A dispute ensued when he was questioned as to why he was trifling away time. As the skirmish hampered production activities a charge sheet was issued to the 2nd respondent on 10.09.2005. An enquiry was subsequently held and the Enquiry Officer submitted his report on 26.11.2005 holding that the 2nd respondent guilty of the charges levelled against him. A second show cause notice was issued on 01.03.2006 for which the reply was sent by the 2nd respondent through his letter dated 25.03.2006. As the reply was



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found to be unsatisfactory the petitioner issued dismissal order dated 02.06.2006. Aggrieved by the same, the 2nd respondent raised an industrial dispute u/s 2(A(2) of the Industrial Disputes Act, 1947 (in short 'the I.D. Act') in I.D.No.75 of 2008 on the file of the 1st respondent and the 1st respondent passed the impugned award dated 20.01.2015, setting aside the order of dismissal and directed the petitioner to reinstate the 2nd respondent with continuity of service and to pay backwages and other monetary benefits payable to the similarly placed employees. Challenging the same, the present writ petition is filed.

3. Learned counsel for the petitioner submitted that, this Court, vide order, dated 02.11.2021 made in W.M.P.No.8097 of 2017 in W.P.No.30597 of 2015 directed the petitioner to pay the 2nd respondent respondent the last drawn wages as provided u/s 17-B of the I.D. Act from the date of filing of the present writ petition i.e., 28.09.2015 and continue to pay the same till the final decision of this Court in this writ petition. However, it is found that the 2nd respondent was gainfully employed in Fire pro Systems Pvt. Ltd., from July 2007 to July 2008, Trivitron Group of Companies as Assistant Manager from July 2008 to



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March 2009, Idea Cellular Ltd. from April 2009 to December 2009 and
ISS Integrated Facility Services Pvt. Ltd., from March 2011 to till date.

In view of the gainful employment of the 2nd respondent, ordering wages u/s 17-B of the I.D. Act is wholly unsustainable, thereby, the petitioner has filed the present review application. Further, he submitted that the allegation against the 2nd respondent is that he is handling the sophisticated machine, however, he produced low production, thereby, the petitioner company sustained loss, for which, the petitioner had passed an order of dismissal against the 2nd respondent. Subsequently, he was gainfully employed as stated above. Accordingly, he prays for appropriate orders.

4. Learned counsel appearing for the 2nd respondent did not dispute the fact that the 2nd respondent was gainfully employed after the order of dismissal. He further submitted that for the allegation of low production, order of dismissal is highly disproportionate. Hence, he submitted that this Court may pass appropriate order in view of the subsequent gainful employment of the 2nd respondent.



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5. Heard the learned counsel for the petitioner and the learned counsel appearing for the 2nd respondent and also perused the materials available on record.

6. Admittedly, the 2nd respondent was working as a operator of a sophisticated machine called KOMAX 3 in the petitioner company and for the alleged misconduct, after conducting disciplinary proceedings, the 2nd respondent was dismissed from service, against which, the 2nd respondent raised an industrial dispute and the Labour Court passed the impugned award in favour of the 2nd respondent, assailing which, the present writ petition is filed.

7. It is pertinent to note that for the allegation of low production, the petitioner has passed an order of dismissal as against the 2nd respondent, which is highly disproportionate. However, it is seen from the records that, after the order of dismissal, the 2nd respondent was gainfully employed. In view of the subsequent gainful employment of the 2nd respondent, this Court is inclined to modify the award of the 1st



respondent in the following terms :-

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(i) the petitioner is directed to pay a sum of Rs.3,50,000/- (Rupees Three Lakhs and Fifty Thousand only) to the 2nd respondent as compensation in full quit, within a period of four (4) weeks from the date of receipt of a copy of this order;

(ii) the petitioner is directed not to recover the wages as provided u/s 17-B of the I.D. Act from the 2nd respondent, if any, paid by the petitioner.

8. With the above modification, this Writ Petition is disposed of.

In view of the above order, no order is required to be passed in the review application No.16 of 2022 and accordingly, the same is closed.

No costs. Consequently, the connected miscellaneous petitions are also closed.

26.03.2025

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation Case : Yes / No

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To

The Presiding Officer,
II Additional Labour Court,
Chennai.



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M.DHANDAPANI, J.

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