



W.P.Nos.9128 of 1999 and 480 & 483 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED: 28.04.2025

CORAM:

THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P.Nos.9128 of 1999 and 480 & 483 of 2021

and

WMP.Nos.560 & 564 of 2021

W.P.No.9128 of 1999:

Vice Chairman and Managing Director,
M/s. Regency Ceramics Ltd.,
Yanam.

...Petitioner

Vs.

1. The Presiding Officer,
Labour Court, Pondicherry.

2. K.V.V.Satyanarayanamurthy

...Respondents

Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorari, to call for the records on the file of the 1st respondent relating to the award dated 09.07.1998 in Industrial Disputes No.28 of 1994 and quash the same.

W.P.No.480 of 2021:

M/s.Regency Ceramics Ltd.,
Yanam, Union Territory of Puducherry.
Rep. by its Chairman and Managing Director.

...Petitioner



W.P.Nos.9128 of 1999 and 480 & 483 of 2021

Vs.

WEB COPY K.V.V.Sathyanaarayana Murty

...Respondent

Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorari, to call for the records from the Industrial Tribunal cum Labour Court, Puducherry in Claim Petition No.02 of 2012 and quash the order dated 06.03.2019.

W.P.No.483 of 2021:

M/s.Regency Ceramics Ltd.,
No.5-8-356, N.N House,
Chirag – Ali – Lane, Hyderabad – 500 001.
Rep. by its Chairman and Managing Director.

...Petitioner

Vs.

K.V.V.Sathyanaarayana Murty

...Respondent

Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorari call for the records from the Industrial Tribunal cum Labour Court, Puducherry in Claim Petition No.09 of 2012 and quash the order dated 06.03.2019.

For Petitioner : Mr.P.Raghunathan
for M/s.T.S.Gopalan and Co.
(in all W.P's.)

For Respondent(s): Mr.G. Ashokapathy
for M/s.Pass Associates
(for Sole Respondent in W.P.Nos.480 & 483 of
2021 and for R2 in W.P.No.9128 of 1999)
: R1 – Court
(in W.P.N.9128 of 1999)



W.P.Nos.9128 of 1999 and 480 & 483 of 2021

COMMON ORDER

WEB COPY Since the matter involved in all these Writ petitions are related to one another, they are disposed of by way of a common order.

2. The gist of the case are as follows :-

It is the case of the petitioner management that, the respondent/workman joined the services of the Management as Assistant Operator in the year 1985. While so, for certain misconducts committed by the workman, the petitioner Management suspended the respondent/employee and ultimately, he was dismissed from service on 05.07.1994. Aggrieved by the same, the employee raised an industrial dispute in I.D.No.28 of 1994 before the Labour Court, Pondicherry and the Labour Court, vide its award dated 09.07.1998 ordered for reinstatement with continuity of service along with 25% backwages. Aggrieved by the same, the petitioner Management has filed W.P.No.9128 of 1999 and the same was dismissed on 11.07.2008 by confirming the Award passed by the Labour Court solely on the ground that the petitioner did not obtain approval u/s. 33(2)(B) of the Industrial Disputes Act. Challenging the said order, the petitioner Management preferred a Writ Appeal in W.A.No.302 of 2009. During the pendency of the said Writ Appeal, on the other hand, the respondent-

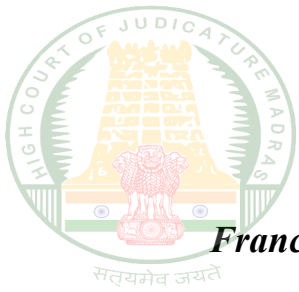


W.P.Nos.9128 of 1999 and 480 & 483 of 2021

WEB COPY

employee submitted an application before the petitioner management seeking for reinstatement of service. Later, the respondent/ employee joined service on 25.11.2010 and he made claim for back wages. However, the claim of the employee was not considered and on 13.09.2011, he was once again suspended from service. In the meanwhile, the respondent/ employee filed Claim Petitions in C.P.Nos.2 & 9 of 2012 seeking for arrears of suspension allowance as well as claimed backwages. Subsequently, the Labour Court, vide its orders, both dated 06.03.2019, directed the petitioner-management to pay a sum of Rs.2,27,861/-and Rs.14,54,553/- towards arrears of suspension allowance and back wages respectively. Aggrieved over the said orders, the petitioner has filed W.P.Nos.480 & 483 of 2021 respectively.

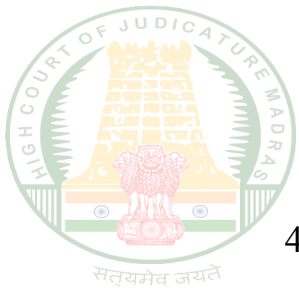
3. Learned counsel for the petitioner/management submitted that, sleeping during the duty hours is a grave misconduct and the same has to be viewed seriously, since the same would have resulted in untoward accidents, which would result in huge loss both to the petitioner/ management as well as the respondent/workman. In order to support his contention, the learned counsel for the petitioner-management relied upon the decision of the Hon'ble Apex Court in the case of ***P.H.Kalyani Vs. Air***



W.P.Nos.9128 of 1999 and 480 & 483 of 2021

France, Calcutta in the case of **Civil Appeal No.419 of 1962 dated 15.02.1963** reported in **1963 SCC Online SC 105**. Learned counsel further

submitted that, though the W.P.No.9128 of 1999 was initially dismissed by this Court on the ground that no approval has been sought for under Section 33(2)(B) of the ID Act, however, the Hon'ble Division Bench of this Court, vide its order dated 25.02.2019 had rightly arrived at a conclusion that, when there is no conciliation proceedings pending between the petitioner/management and the respondent/workman, there is no necessity for obtaining approval under Section 33(2)(B) and thereby, set aside the said dismissal order and restored the Writ petition. Learned counsel also submitted that, pending the above Writ Appeal, the parties entered into settlement and the matter was agreed to be settled for a sum of Rs.7,00,000/- and the same is evident from the admission made by the employee himself during his cross examination. However, without considering the same, the Labour Court has ordered for a sum of Rs.2,27,861/- towards arrears of suspension allowance in C.P.No.2 of 2012 and Rs.14,54,553/- towards back wages in C.P. No.9 of 2012, payable by the petitioner management in favour of the respondent employee which is wholly unsustainable and the same is on the higher side. Accordingly, he prayed for appropriate orders.



W.P.Nos.9128 of 1999 and 480 & 483 of 2021

4. Per contra, the learned counsel appearing on behalf of the respondent/employee submitted that, the above said act of the management is nothing but an act of victimisation, since the workman herein was the President of the worker's union at the relevant point of time and was raising voices against the illegal act of the management. Further, the management had miserably failed to prove the above charges made against the respondent/employee. Thereby, the Labour Court, considering all the materials in proper perspective has passed the present impugned orders, which are speaking and reasonable orders and the same does not require any interference at the hands of this Court.

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

6. When the matter was taken up for hearing, this Court, considering the issue involved and the passage of time from the date on which the workman was dismissed from service, as more than three decades have passed since the order of dismissal, had suggested that the matter may be settled by the parties by paying a consolidated amount, as no useful purpose would be served in continuing the litigation, as by now the



W.P.Nos.9128 of 1999 and 480 & 483 of 2021

workman would have crossed the age of superannuation and he having not been in service, on the basis of no work no pay would not be entitled for backwages and cannot also be reinstated in view of his age of superannuation, however, the learned counsel appearing for the parties were not inclined to come for a settlement and, therefore, did not consent to an order for settlement, as proposed by this Court.

7. Though consent has not been given by the parties, however, this Court, sitting under Article 226 of the Constitution, is required to render substantial justice and in view of the facts narrated above and the sequence of events that have passed through the three decades, when the parties have been fighting out their rights before the judicial forum, this Court, in exercise of its powers if inclined to direct the petitioner-Management to pay a lumpsum towards full quit as settlement in favour of the respondent employee.

8. Accordingly, this Court without interfering with the orders impugned in these Writ petitions, directs the petitioner-management to pay a sum of Rs.14,00,000/-(Rupees Fourteen Lakhs only) as settlement, in full quit in favour of the respondent - workman within a period of four weeks



W.P.Nos.9128 of 1999 and 480 & 483 of 2021

from the date of receipt of a copy of this order, failing which, the same would carry interest at the rate of 9% per annum from the date of award ie., 06.03.2019 till the date of realisation. Further, it is made clear that, if any amount has been already paid by the management in favour of the workman, the same shall not be recovered from the respondent-workman.

9. With the aforesaid directions, these Writ petitions are disposed of.

No costs. Consequently, the connected Miscellaneous petitions are closed.

28.04.2025

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

To

The Presiding Officer,
Labour Court,
Pondicherry.



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M.DHANDAPANI, J.

skt

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