



W.P.No.4685 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2025

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.4685 of 2012

and

M.P.No.1 of 2012

The Management of Kandasamy Mills (P) Ltd.,
Rep. by the Managing Director,
N.Sendamaraai,
Bhavani – 638 316,
Erode District.

... Petitioner

Vs.

1.The workmen rep. by Kovai Periyar Mavatta Dravida Panchalai
Thozhilalar Munnertra Sangam,
through its General Secretary,
Mr.Duraisamy,
48, Tatabad Street No.3,
Coimbatore – 641 012.

2.The Management of Kumaravel Rana Spinning Mills Pvt. Ltd.,
rep. by its Managing Director,
Balaji Garden,
Thindal, Erode – 638 009.

3.Saraswathy
4.L.Kumaravel
5.Sakthi

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records relating



W.P.No.4685 of 2012

to the Award dated 28.06.2010 made in I.D.No.77 of 2000 (served on 02.03.2011) on the file of the Industrial Tribunal, Chennai, quash the same.

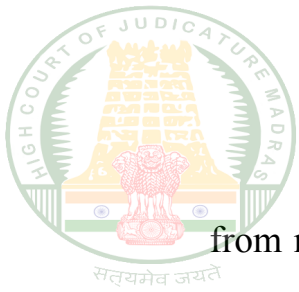
For Petitioners : Mr.N.Manokaran

For Respondents : Mr.K.Sudalai Kannu [R1]
No appearance [R2 to R5]

ORDER

This Writ Petition has been filed seeking for a Writ of Certiorari, to call for the records relating to the Award dated 28.06.2010 made in I.D.No.77 of 2000 (served on 02.03.2011) on the file of the Industrial Tribunal, Chennai and quash the same.

2. The case of the petitioner is that, the petitioner mill is situated at Suriyampalayam, Erode District and the 2nd respondent management represented by the Managing Director late K.V.Laxmanan entered into an agreement of Leave and License dated 19.05.1995 with the management of the petitioner mills for a period of four years between 19.05.1995 and 18.05.1999 subject to the condition to pay the security deposit amount of Rs.40 lakhs which should be adjusted at the rate of Rs.2 lakhs per month



W.P.No.4685 of 2012

WEB COPY

from monthly license fee for the last 20 months of the leave and license period besides the payment of monthly license of Rs.5 lakhs towards the use of building, plant and machineries. In pursuance to the said agreement of leave and license dated 19.05.1995 between the petitioner and the 2nd respondent herein, the lessee had agreed to pay the following monthly liabilities as per the order of priority and they are (i) Indian Bank, Erode main branch – Rs.2.5 lakhs, (ii) Statutory liabilities – Rs.1.5 lakhs and (iii) Creditors – Rs.1 lakh. The petitioner management undertook to pay all the statutory liabilities such as sale tax, central excise duty, P.F., ESI, yarn cess and payment towards electricity charges upto the date of the agreement dated 19.05.1995, thereafter, the 2nd respondent lessee undertook to pay all these dues from the date of the agreement. Besides that, the 2nd respondent lessee should pay the bonus as per the Payment of Bonus Act and other incidental dues like wage increments, settlements or any other payments as per Clause 23 of the agreement. Whiles, after the agreement, the 2nd respondent management sent a letter dated 30.04.1998 by terminating the agreement dated 19.05.1995 with effect from 01.05.1998. Thereafter, the workmen claimed that the minimum bonus of 8.33% as per the Bonus Act was not paid by the petitioner and thereby the 1st respondent Union raised an

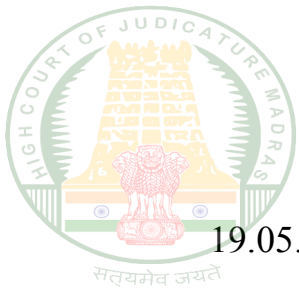


W.P.No.4685 of 2012

WEB COPY

industrial dispute in I.D.No.77 of 2000 on the file of the Industrial Tribunal, Chennai in I.D.No.77 of 2000 only against the petitioner management and it was allowed on 30.04.2004, directing the 2nd respondent to pay the bonus payable to the workmen at the rate of 8.33% for the financial year 1997 – 1998. Though the award was in favour of the 1st respondent union, yet the union was very particular in fixing the liability on the petitioner herein. Under such circumstances, the 1st respondent Union filed a writ petition before this Court in W.P.No.18534 of 2004 and this Court, by its order, dated 29.09.2006 set aside the award passed in I.D. and remanded the matter to the Labour Court for fresh adjudication. Thereafter, the Labour Court, by giving wrong interpretation to clause 23 of the agreement and the arbitration award, directed the petitioner to pay the bonus and recover the same from the 2nd respondent. Challenging the same, the above writ petition has been filed.

3. Learned counsel for the petitioner submits that, the issue arises in the present writ petition is a very simple issue with regard to the interpretation of the arbitration award dated 06.05.1999 and clause 23 of the agreement dated 19.05.1995. Hence, he submitted that this Court may give a reasonable interpretation in agreement of leave and license dated



W.P.No.4685 of 2012

19.05.1995 and arbitration award dated 06.05.1999 and pass appropriate

orders. Accordingly, he prays for allowing the above writ petition.

4. Per contra, learned counsel appearing for the 1st respondent submitted that, the Labour Court, after elaborate consideration, had arrived at a conclusion that there was an arbitration award in between the petitioner management and 2nd respondent. By giving interpretation of clause 23 of the agreement and arbitration award and issued a direction to the petitioner to pay the quantum of bonus at 8.33% as per the Bonus Act to the 1st respondent and recover the same from the 2nd respondent. Such a well considered order cannot be interfered with unless the order suffers from perversity, illegality or arbitrary. Accordingly, he prays for dismissal of the writ petition.

5. Though name of the respondents 2 to 5 printed in the cause list, however, no one appeared on behalf of the respondents 2 to 5. Heard the learned counsel for the petitioner and the learned counsel appearing for the 1st respondent and also perused the materials available on records.



W.P.No.4685 of 2012

6. The issue arises that for consideration in this writ petition is who is liable to pay the bonus to the workmen of the petitioner management.

7. Admittedly, the 1st respondent Union raised a dispute before the Labour Court claiming the minimum bonus of 8.33% as per Bonus Act for the year 1997 – 1998 and the petitioner management is the owner of the mill and since they are not able to run the mill profitably, they entered a leave and licence agreement with the 2nd respondent on 19.05.1995. The relevant clause 23 of the said agreement, which was admitted by both the parties is as follows:-

“23. The owner and Licensee will arrive at an amicable settlement on bonus to their employees according to Bonus Act and other related issues like Wages Increase, Settlements or any other awards. The amounts payable are to be borne by the Licensee from the date of this agreement.”

8. The relevant portion of the arbitration award passed in between the petitioner management and the 2nd respondent is as follows :-

“8. As per the reconciliation statement Ex.A6, Kumarave, Rana Spinning Mills Private Limited has admitted under Cl.(3), bonus, (4)-Salary & wages, (5)-August, 98 wages, Cl.(7), Provident Fund, Cl.(8), ESI, and Cl.(9) Yarn cess the aforesaid amounts are



WEB COPY



W.P.No.4685 of 2012

admitted as due from Kumaravel Rana Spinning Mills Private Ltd., towards statutory and other liability and workers due, the same having arisen during the period of lease, as per reconciliation statement prepared and submitted by representatives of both parties on 11.8.98.

<i>Bonus</i>	<i>-- Rs.13,91,121-00</i>
<i>Salary & Wages</i>	<i>-- Rs. 1,24,628-00</i>
<i>August 98 wages</i>	<i>-- Rs. 5,00,000-00</i>
<i>Provident fund</i>	<i>-- Rs.19,36,014-00</i>
<i>ESI</i>	<i>-- Rs. 2,48,497-00</i>
<i>Yarn Cess</i>	<i>-- Rs. 37,642-00</i>

(In respect of salary & wages for July, & August 1998, it is admitted by both parties, Kumaravel Rana Spinning Mills Private Limited paid a sum of Rs.5,89,628/- and the balance of Rs.35,000/- approximately remains due) Therefore, in respect of all the aforesaid amounts, we direct that Kumaravel Rana Spinning Mills Private Limited shall immediately, upon receipt of award, pay the amounts to the respective parties and the authorities, to whom the same are due)."

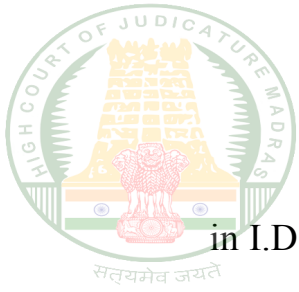
9. A perusal of clause 23 of the agreement makes it clear that the petitioner and the 2nd respondent will arrive at an amicable settlement on bonus to their employees according to the Bonus Act and other related issues, viz., wages increase, settlements or any other awards, the amount payable are to be borne by the licensee from the date of the agreement i.e., 19.05.1995 and subsequently, there was a dispute with regard to the payment, thereby, there was arbitration award in between the petitioner



W.P.No.4685 of 2012

and the 2nd respondent. As per para 8 of the arbitration award, the 2nd respondent admitted under Cl.(3) bonus, (4)-Salary & wages, (5)-August, 98 wages, Cl.(7), Provident Fund, Cl.(8), ESI and Cl.(9) Yarn cess and the above said amounts were admitted as due from the 2nd respondent towards statutory and other liabilities and workmen dues and the same having arisen during the period of license as per reconstruction statement prepared and submitted by the representative of both the parties on 11.08.1998. The arbitrator issued a direction to the 2nd respondent that upon immediate receipt of the award, pay the amount to the respective parties and the authorities to whom the same are due. Clause 23 and para 8 of the arbitration award makes it clear that the above said dues are payable only by the 2nd respondent and not by the petitioner. When the award and clause 23 of the agreement makes it clear that the statutory dues are payable only by the 2nd respondent, contrary to the same, the Labour Court directed to the petitioner to pay the said dues and thereafter, recover the same from the 2nd respondent, which is perverse, illegal and arbitrary. Hence, the impugned order is liable to be set aside.

10. Accordingly, this Writ Petition is allowed and the impugned order passed by the Industrial Tribunal, Chennai dated 28.06.2010 made



W.P.No.4685 of 2012

in I.D.No.77 of 2000 is set aside and the 2nd respondent is directed to pay

the dues of bonus to the 1st respondent as expeditiously as possible. No

costs. Consequently, the connected miscellaneous petition is closed.

12.02.2025

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation Case : Yes / No

sp

To

The Industrial Tribunal, Chennai.



WEB COPY



W.P.No.4685 of 2012

M.DHANDAPANI, J.

sp

W.P.No.4685 of 2012

12.02.2025