



W.P.No.34164 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2025

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

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1.M.Selvam
2.G.Perumal
3.N.Velmani
4.K.Balakrishnan
5.J.Ramesh
6.D.Parthiban
7.P.Balaji
8.K.Rajaganesh
9.P.Uthaman

... Petitioners

Vs.

1.The Presiding Officer,
Principal Labour Court,
Vellore.

2.The Management of Sri Munipachappa Textiles (P) Limited,
Iyapedu Village and Post,
Sholinghur, Wallaja Taluk,
Vellore District.

... 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 Labour Court in connection with the common preliminary order pronounced by it in I.D.Nos.201 and 202, 204 to 206 of 2009 and I.D.No.242 to 245 of 2009 pronounced on 17.11.2011 and the



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consequent common award in the said Industrial Disputes pronounced on 24.04.2012 and quash the same.

For Petitioner : Mr.K.Sudalaikannu
For Respondents : Labour Court [R1]
Mr.S.Pandiyaraj [R2]

ORDER

Whether the workmen who had actively participated in stay-in strike for three days and had also stopped fellow workmen from entering into the premises and doing their job, are entitled for reinstatement, continuity of service and other benefits, is the short point to be determined in this writ petition.

2. Brief facts are as follows:

(a) The petitioners joined the services of the second respondent management on various dates and years and continued to be in service of the management until they were terminated. According to the petitioners, they were not issued with any written appointment order at the time of their entry into service. Every year, there was an increment at the rate of Rs.100/- per year. Since there was no proper trade union, the management itself started a union under the name “Sri



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Munipachaiyappan Textiles Labour Union” and the office bearers were

also nominated by the management.

(b) While so, the management got its nominees sign a document revising wages, labeling it as a settlement. According to the petitioners, the said settlement was sham. The workers went on a strike. Without following the due process of law, the management terminated the services of the petitioners. Challenging the same, the petitioners raised industrial disputes which was taken on file as ID Nos.201, 202, 204 to 206, 242 to 245 of 2009 on the file of the Principal Labour Court, Vellore. The Labour Court has rejected the dispute raised by the petitioners. Challenging the same, the present writ petition has been filed.

3. Learned counsel for the petitioners submitted that, the second respondent management management has adopted the policy of hire and fire. The management also not in the habit of issuing proper appointment order and this was primarily with an objective of terminating the employees on their whims and fancies. The management also not allowed a proper trade union to be formed so that workers air their grievances. The management had created a trade union, which acted like a pet. The



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office bearers of the trade union were also nominated by the management themselves. Therefore, according of the learned counsel, the management was in the habit of acting in a high handed manner and the present termination of the workmen is a best example for the same. Further, he submitted that the award of the Labour Court is highly improper and the Labour Court had believed the version of the management and got carried away by the documents produced on its side. Therefore, he submitted that the award needs an interference by this Court.

4. Per contra, learned counsel appearing for the second respondent submitted that, the petitioners were afforded an opportunity to defence themselves at every stage of proceedings both in the domestic enquiry and also in the procedures before the Labour Court. Having chosen to stay away from the proceedings or having chosen to remain silent on factual aspects. Now, it is too late in the day to find fault with the domestic enquiry and also the award of the Labour Court. Therefore, he prayed that the award could be sustained and the writ petition needs to be rejected. In support of his contentions, he relied upon the judgment of the High Court of Bombay in W.P.No.2052 of 2006, dated 22.10.2024.



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WEB COPY 5. Heard the learned counsel appearing for the petitioner as well as the second respondent and also perused the materials available on record.

6. A perusal of the impugned order would show that on 28.06.2006, an employee named Perumal was suspended from duty for certain misconduct. Protesting the same, some of the employees assembled at Time Office and threatened the staff to withdraw the suspension of Perumal. In the said incident a Personal manager was assaulted by one Balakrishnan, worker.

7. The petitioners went on stay-in strike between 28.06.2006 to 30.06.2006 seeking withdrawal of the suspension. On 29.06.2006, the management informed the officials, and the officials also reached the factory and conducted peace talks. However, the petitioners refused to withdraw the strike.

8. The conduct of the petitioners assumes importance to find out whether there are liable to be reinstated or not.



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9. Before the Labour Court the petitioners raised a preliminary issue whether the domestic inquiry conducted by the management in a free and fair manner and following the principles of natural justice.

10. By order dated 17.11.2011, the Labour Court held that the management has not violated any law and that the domestic inquiry was conducted following the due process of law.

11. The petitioners went on stay-in illegal strike from 28.06.2006 to 30.06.2006. Labour Officer by his letter dated 29.06.2006 advised the petitioners/union to give up their illegal strike.

12. The strike was carried as news item in dailies like The Hindu and Dinamalar. The Civil Court had also enjoined the workmen from conducting 'dharna or strike' near the factory premises, by order dated 25.10.2004. Despite there being an injunction, the workers went on strike on 28.06.2006 to 30.06.2006.

13. Tribunal has observed in its order that though the workmen were given sufficient opportunity to rebut the charges framed against



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them, they have failed to get into the box and let in evidence. Even their
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14. The workers reasoned that the stay-in strike was only due to the suspension of one Perumal, for his alleged misconduct. If at all the workers/union was aggrieved by the suspension, they could have very well approached the Industrial Tribunal and sought for redressal.

15. Even in the writ petition filed before this Court by the management in WP No.21079 of 2006 to restrain the petitioners from strike, the petitioners have given an undertaking that they would not continue the strike. Despite such an undertaking given before this Court, the petitioners violated the undertaking and indulged in stay-in strike. It is also in event that one of the staff of the management was man-handled by the workmen. The conduct of the petitioners was not conducive for the proper functioning of the factory. The petitioners have every right to agitate for the rightful claims, but it has to be done in a democratic and law abiding manner. The petitioners have taken law on their hands and despite the assurance given by them before this Court, they have continued the strike. The petitioners have also prevented the co-workers



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from entering into the factory and do their job. The conduct of the petitioners does not deserve any mercy and if at all they are reinstated, it will only create a unhealthy and uneasy atmosphere in the factory.

16. Sustaining the award passed by the Labour Court, this Court has no hesitation to reject the writ petition. Hence, this Writ Petition fails and the same is 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,
Principal Labour Court,
Vellore.



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M.DHANDAPANI, J.

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