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W.P.Nos.35973 and 35974 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2025

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.35973 and 35974 of 2015

And

M.P.Nos.1 and 2 of 2015 and 1 and 2 of 2015

M/s.Southern Petrochemical
Industries Corporation Limited (SPIC),
SPIC House,
88, Mount Road,
Guindy, Chennai 600 032.
Rep. by its Authorised Signatory ... Petitioner in both the W.Ps.

Vs.

1.The Presiding Officer,
First Additional Labour Court,
Chennai. ... Respondent in both the W.Ps.

2.R.Murugesan ... Respondent in W.P.35973/2015
2.V.M.Thanigainathan ... Respondent in W.P.35974/2015

3.SPIC Science Foundation,
Rep. by its Member Secretary
SPIC House,
88, Mount Road,
Chennai 600 032. ... Respondent in both the W.Ps.

Common Prayer:

Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the first respondent in I.D.Nos.4 and 5 of 2013 respectively and quash the award dated 20.11.2014.



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For Petitioner : Mr.G.Anand
for M/s.Agam Legal Advocates
in both the W.Ps.

For Respondents : R1 – Court
Mr.B.Venugopal for R2
R3 – Not Ready Notice
in both the W.Ps.

COMMON ORDER

The writ petitions have been filed seeking issuance of Writ of Certiorari calling for the records of the first respondent in I.D.Nos.4 and 5 of 2013 respectively and quash the award dated 20.11.2014.

2.Since the issue involved in these writ petitions are interrelated, they are heard together and disposed of by way of a common order.

3.The learned counsel appearing for the petitioner submitted that the respective second respondent were the employees of the third respondent and since the third respondent was closed, the services of the respective second respondent were terminated and challenging their termination, the respective second respondent raised industrial disputes before the first respondent and the first respondent directed the petitioner to pay 50% backwages calculated from 31.03.2011 till the date of the impugned orders as one time compensation to the



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respective second respondent since the petitioner was taking care of the winding up activity of the third respondent.

4.The learned counsel appearing for the petitioner further submitted that the first respondent in the impugned orders observed that the functional integrity of the petitioner and the third respondent is not proved and that mere participation of the petitioner's representative before the Labour Officer will not prove that the petitioner and the third respondent are one and the same, however, arrived at a conclusion that the petitioner was taking care of the winding up activity of the third respondent and directed the petitioner to pay compensation to the respective second respondent, which is not sustainable one.

5.The learned counsel appearing for the respective second respondent submitted that the third respondent is the sister concern of the petitioner company. The respective second respondent joined as Messenger and Lab Assistant respectively, in the third respondent. Thereafter they were posted at the petitioner company, however, the petitioner establishment not provided employment for them and they



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were orally terminated from service and the same was challenged before the first respondent and the first respondent based on the materials available on record passed the impugned orders, which warrant no interference.

6. Heard the arguments advanced on either side and perused the materials available on record.

7. The respective second respondent were appointed as Messenger and Lab Assistant respectively, in the third respondent during the years 1990 and 1995 respectively. No document is marked to establish the relationship between the petitioner and the third respondent. Further, the first respondent in the impugned orders has observed as follows:

(i) In I.D.No.4 of 2013 dated 20.11.2014:

"The petitioner claimed that he could be accommodated in the sister concern of first respondent which cannot be accepted because both were not having functional integrity. No document is produced to prove both establishments are having functional integrity. Merely because both are managed by one



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group cannot be a reason to accommodated in that establishment as a matter of right.

In the above said circumstances as the material evidences proved that the first respondent establishment was closed; No order of reinstatement can be passed.

In the above said circumstances it will be fit and proper award to compensation to meet the end of justice.

When the functional integrity of first and second respondent is not proved.

This Court is not in a position to give a direction to reinstate in the second respondent company.

However, mere participation of second respondent representative before labour officer will not prove that both respondents are one and same. However, since second respondent is taking care of the winding up activity of the society the second respondent is liable to pay compensation to the petitioner."

(ii) In I.D.No.5 of 2013 dated 20.11.2014:

"The petitioner claimed that he could be accommodated in the sister concern of first respondent which cannot be accepted because both were not having functional integrity. No



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document is produced to prove both establishments are having functional integrity. Merely because both are managed by one group cannot be a reason to accommodated in that establishment as a matter of right.

In the above said circumstances as the material evidences proved that the first respondent establishment was closed; No order of reinstatement can be passed.

In the above said circumstances it will be fit and proper award to compensation to meet the end of justice.

When the functional integrity of first and second respondent is not proved. This Court is not in a position to give a direction to reinstate in the second respondent company.

However, mere participation of second respondent representative before labour officer will not prove that both respondents are one and same. However, since second respondent is taking care of the winding up activity of the society the second respondent is liable to pay compensation to the petitioner."

8.Perusal of both the impugned orders reveals that the first respondent has categorically arrived at a conclusion that the functional integrity of the petitioner and the third respondent is not proved and



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that mere participation of the petitioner's representative before the Labour Officer will not prove that the petitioner and the third respondent are one and the same, however, directed the petitioner to pay compensation to the respective second respondent as if the petitioner was taking care of the winding up activity of the third respondent. However, the winding up procedure was not proved. In the absence of any material to prove that the petitioner was taking care of the winding up activity of the third respondent, the impugned orders passed by the first respondent warrants interference.

9.The employer and employee relationship between the third respondent and the respective second respondent are proved before the first respondent. Hence, the third respondent is liable to pay compensation as awarded by the first respondent to the respective second respondent since the third respondent closed the establishment without following the Industrial Laws.

10.The writ petitions are allowed. The award of the first respondent in I.D.Nos.4 and 5 of 2013 respectively dated 20.11.2014 are set aside in so far as the petitioner is concerned. Liberty is granted to the respective second respondent to work out the remedy



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in the manner known to law as against the third respondent for implementation of the impugned award. No costs. Consequently, connected miscellaneous petitions are closed.

18.03.2025

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

To

- 1.The Presiding Officer,
First Additional Labour Court,
Chennai.
- 2.SPIC Science Foundation,
Rep. by its Member Secretary
SPIC House,
88, Mount Road,
Chennai 600 032.

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