



W.P.Nos.3619 of 2013 & 5398 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2025

CORAM :

THE HONOURABLE MR. JUSTICE **M.DHANDAPANI**

W.P.Nos.3619 of 2013 & 5398 of 2019

and

MP.No.1 of 2013 & WMP.No.6131 of 2019

W.P.No.3619 of 2013:

K.Lakshmanan (*Deceased*)

1. L.Vijayalakshmi
2. L.Balasubramani
3. B.Usha
4. B.Chitra

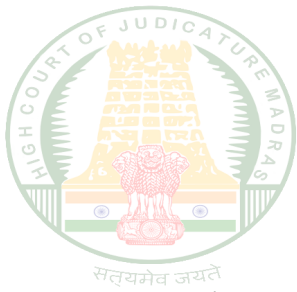
...Petitioners

(P1 to P4 substituted as legal heirs of the deceased K.Lakshmanan, vide order dated 24.02.2025 made in WMP.No.24495 of 2024 in W.P.No.3619 of 2013)

Vs.

1. The Presiding Officer,
III Additional Labour Court,
Chennai.
2. The Special Officer,
The Kancheepuram Consumer,
Co-operative Whole Sale Stores Ltd.,
185, Prakasam Salai, Chennai – 600 108.

...Respondents



W.P.Nos.3619 of 2013 & 5398 of 2019

Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records in I.D.No.365 of 2003 on the file of the 1st respondent and quash the portion of the award pertaining to 50% of the payment of backwages and direct the 2nd respondent to pay full backwages with all other attendant benefits to the petitioner.

(Prayer amended as per order dated 20.02.2013 made in MP.No.2 of 2013 in W.P.No.3619 of 2013.)

For Petitioners : Mr.P.Solomon

For Respondents : R1 – Court
Mr.L.P.Shanmugasundaram, for R2

W.P.No.5398 of 2019:

The Management of
M/s.Kancheepuram District Consumer
Co-operative Wholesale Stores Ltd.,
Rep. by its Managing Director,
No.185, Prakasam Salai, Chennai – 600 108.

...Petitioner

Vs.

K.Lakshmanan

...Respondent

Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records relating to the award dated 18.06.2012 in I.D.No.365 of 2003 and consequently order passed in C.P.No.134 of 2013 dated 01.09.2018 on the file of the III Additional Labour Court, Chennai and quash the same.



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For Petitioner : Mr.L.P.Shanmugasundaram

For Respondent : Mr.P.Solomon

COMMON ORDER

Since the issue involved in both the writ petitions are interconnected, with the consent of the learned counsel for the parties, both the writ petitions are heard together and disposed of by way of this common order.

2. Challenging the award passed by the III Additional Labour Court, Chennai in I.D.No.365 of 2003 dated 18.06.2012, the workman has filed W.P.No.3619 of 2013 and the management has filed W.P.No.5398 of 2019 challenging the very same award dated 18.06.2012 and the consequential order dated 01.09.2018 made in C.P.No.134 of 2013.

3. For brevity, the petitioner in W.P.No.5398 of 2019 is hereinafter referred to as 'the management' and the respondent in W.P.No.5398 of 2019 is hereinafter referred to as 'the workman'.



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4. The short facts necessary for disposal of these Writ petitions are as follows:

Pending Writ petitions, the workman passed away and the legal heirs of the deceased workman are brought on record as petitioners 1 to 4 in W.P.No.3619 of 2013. The deceased workman joined the services of the management society as a Salesman on 02.01.1984 and he was subsequently dismissed from service on 02.08.2002 for the alleged misconduct of engaging in an altercation with a co-employee. Against the said dismissal, the workman had raised a dispute u/s 2(A)(2) of the Industrial Disputes Act, 1947 (in short 'ID Act') before the labour Court in I.D.No.365 of 2003 and the Labour Court, vide its award dated 18.06.2012 ordered reinstatement of the workman with 50% backwages and continuity of service. Aggrieved by the grant of 50% backwages instead of full backwages, the workman has filed W.P.No.3619 of 2013. On the basis of the said award, the workman made a representation dated 18.07.2012 to the management to comply with the award of the labour court, which evoked no response. Therefore, the workman filed a computation petition u/s 33(C)(2) of the ID Act in C.P.No.134 of 2013 claiming a sum of Rs.1,46,264/- as statutory amount due to the him and



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the labour court, vide order dated 01.09.2018, allowed the said claim competition and directed the management to pay a sum of Rs.1,45,896/- in favour of the workman along with 9% interest. Challenging the said order as well as the award dated 18.06.2012 made in I.D.No.365 of 2003, the management has filed W.P.No.5398 of 2019.

5. Learned counsel appearing on behalf of the workman/petitioners in W.P.No.3619 of 2013 contended that as per Section 33(2)(b) of the ID Act, the Management ought to have given one month salary and also simultaneously should have filed an approval petition before the competent authority, but in the present case, the management failed to do so and as such, there is a clear procedural lapse, for which the workman should be entitled for full backwages as he was not gainfully employed anywhere and the labour Court has failed to consider this aspect and therefore, prays for appropriate orders.

6. Per contra, the learned counsel appearing on behalf of the management/2nd respondent in W.P.No.3619 of 2013 contended that the Labour Court ought to have dismissed the I.D. and the consequential



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claim petition since the workman has admitted his guilt unequivocally. It

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is further contended that having not satisfied with the award, the workman has filed W.P.No.3619 of 2013 and pending the same, the workman has also filed a execution petition in E.P.No.51 of 2014 for attachment of the Society's immovable properties, irrespective of the fact that the Labour Court could not execute the award until finality is reached in W.P.No.3619 of 2013.

7. This Court gave its careful consideration to the arguments advanced by the learned counsel on either side and perused the materials available on record.

8. The fact remains that the deceased workman had reached the age of superannuation as early as on 28.02.2013, even before passing of the impugned order dated 01.09.2018 in C.P.No.134 of 2013. A perusal of the material documents placed on record reveals that, for non compliance of the order dated 01.09.2018 made in C.P.No.134 of 2013, the workman filed an execution petition in E.P.No.21 of 2014 and subsequently, the management paid the entire sum of Rs.1,45,896/-



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ordered by the labour court in favour of the workman towards Statutory amount for the period from 19.06.2012 till the date of superannuation ie., 28.02.2013 and thereby, the said execution petition was closed. Hence, no further order is necessary in W.P.No.5398 of 2019 filed by the management.

9. The only issue arises for consideration is whether the deceased workman would be entitled for full backwages or not?

10. It is seen from the records that for the alleged misconduct of altercation between the employees, the management imposed the highest punishment of dismissal from service as against the deceased workman and the Labour court, considering the fact that the capital punishment of dismissal from service is highly disproportionate had ordered for reinstatement of workman with continuity of service and all other attendant benefits along with 50% backwages. This Court is in complete agreement with the said findings arrived at by the labour court and thereby, this Court is not inclined to interfere with the said well reasoned award dated 18.06.2012 made in I.D.No.365 of 2003 and the same is confirmed.



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WEB COPY 11. It is evident from record that the deceased workman had reached the age of superannuation as early as on 28.02.2013. Hence, the question of reinstatement does not arise. Thereby, the management is directed to settle the terminal benefits and all other attendant benefits of the deceased workman in favour of his legal heirs, the petitioners in W.P.No.3619 of 2013 along with 50% backwages from the date of dismissal till the date of award in ID ie., 18.06.2012 within a period of four weeks from the date of receipt of a copy of this order. It is made clear that, the deceased workman would be entitled for continuity of service for the purpose of computing of terminal benefits.

12. With the above observations and directions, these Writ petitions stand disposed of. No costs. Consequently, the connected Miscellaneous petitions are closed.

24.02.2025
(2/2)

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Index : Yes / No
Speaking order : Yes / No
NCC : Yes / No



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To

The Presiding Officer,
III Additional Labour Court,
Chennai.



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M.DHANDAPANI, J.

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and
MP.No.1 of 2013 & WMP.No.6131 of 2019
(2/2)

24.02.2025



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W.P.Nos.3619 of 2013 & 5398 of 2019

WMP.No.24495 of 2024
in
WP.No.3619 of 2013

M.DHANDAPANI, J.

The present Miscellaneous petition filed seeking to substitute the petitioners 1 to 4 herein as the legal heirs of the deceased petitioner namely K.Lakshmanan in the main Writ petition in W.P.No.3619 of 2013 is ordered as prayed for.

24.02.2025
($\frac{1}{2}$)

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Note: Registry is directed to carryout the necessary amendment in the cause title.