



WEB COPY

W.A.No. 1231 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

**W.A.Nos. 1231, 1237, 1259, 1270, 1236, 1251, 1260, 1261, 1268, 1249 &
1254 of 2025**

and

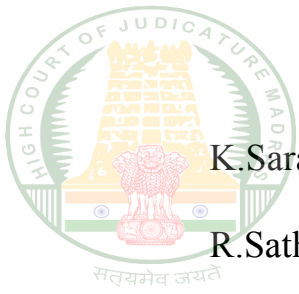
**C.M.P.Nos. 9353, 9400, 9521, 9587, 9387, 9474, 9522, 9524, 9579, 9473 &
9480 of 2025**

The Management,
JBM Auto Ltd.,
Plot No.RNS1, Renault Nissan Supplier Park,
SIPCOT Industrial Growth Centre,
Sriperumbudur Taluk,
Kancheepuram District - 602 105.

...Appellant in all appeals

Vs.

M.Saravanan	... Respondent in W.A.No.1231 of 2025
A.Nagarajan	... Respondent in W.A.No.1237 of 2025
A.Shankar	... Respondent in W.A.No.1259 of 2025
E.Ruthirakotty	... Respondent in W.A.No.1270 of 2025
R.Kannan	... Respondent in W.A.No.1236 of 2025
J.Senthil Murugan	... Respondent in W.A.No.1251 of 2025
S.Arunkumar	... Respondent in W.A.No.1260 of 2025
N.Chandrakumar	... Respondent in W.A.No.1261 of 2025



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K.Saravanamoorthy

... Respondent in W.A.No. 1268 of 2025

R.Sathish

... Respondent in W.A.No.1249 of 2025

M.Eswaran

... Respondent in W.A.No.1254 of 2025

Common Prayer: Writ Appeals filed under Clause 15 of the Letters Patent, against the order dated 04.12.2024 made in W.P.Nos.36446, 36334, 36410, 36417, 36405, 36489, 36328, 36488, 36393, 36387 & 36487 of 2024.

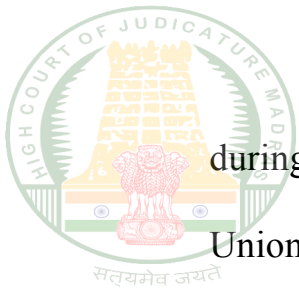
For Appellant : Mr.K.R.Hariharan in all appeals

COMMON JUDGMENT

(Judgment of the Court was made by R.SUBRAMANIAN, J.)

The sole question that arise in all these appeals is as to whether the employer's application, which is purportedly under Section 33(1)(b) is in essence one under 33(2) of the Industrial Disputes Act.

2. The employer sent various employees on deputation to various places. The workmen without joining in the transferred place, raised an industrial dispute. Since conciliation failed, the matter was referred to the Labour Court and the dispute was pending in O.P.No.33 of 2021. Even



during the pendency of the industrial disputes, which was espoused by the Union, the employer went ahead with the disciplinary enquiry against all these employees and passed an order of termination of the employees on 02.04.2024.

3. After passing the order of termination, the employer approached the Labour Court seeking the following prayer:-

"It is therefore prayed that this Hon'ble Court may be pleased to grant express permission for the termination of the opposite party as provided under Section 33(1)(b) of the Industrial Disputes Act, 1947."

The Labour Court rejected the said application on the ground that since the dismissal / termination related to the same issue which was the subject matter of the O.P.No.33 of 2021 pending before it, the Management ought to have sought for prior permission under Section 33(1)(b) and not a post-facto approval under Section 33(2). This order of the Tribunal was put in issue before the writ Court. The learned single Judge concurred with the findings of the Tribunal and dismissed the writ petition. Aggrieved, the Management has come up with this appeal.



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4. We have heard Mr.K.R.Hariharan, learned counsel for the appellant.

5. We find no merit in the appeal. As rightly pointed out by the learned single Judge, Section 33(1) and 33(2) contemplate two different situations. While 33(1) applies where the disciplinary action is in respect of the same issue, which is subject matter of a proceeding before the Labour Court or a Tribunal and, 33(2) deals with the situation where the Management of the employer seeks to take action against the workmen for a subsequent and different delinquency. In the former, the Management has to take an express prior written permission from the Labour Court and in the later, the Management can seek post-facto approval.

6. In the case on hand the Management seeks post-facto approval after terminating the employee, applies to the Labour Court misquoting the provision of law as 33(1)(b) and seeking a prayer for permission. The terms approval or permission are essentially different from each other. Permission is something which has to be obtained prior to the performance



of an Act. Approval is something that can be obtained even after the performance of the Act. The word "permission" is defined as follows in the

WEB COPY Black's Law Dictionary:-

"permission.

1. *The act of permitting; the official act of allowing someone to do something.*

2. *A license or liberty to do something; authorization."*

and the term "express permission" is defined as follows:-

"express permission

Permission that is clearly and unmistakably granted by actions or words, oral or written."

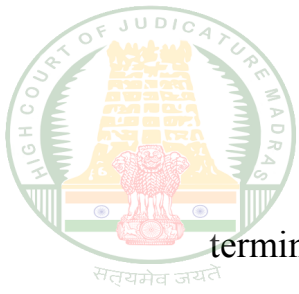
The word "approve" is defined as follows:-

" approve, vb (14c)

1. *To give formal sanction to; to confirm authoritatively.*

2. *Parliamentary law. To adopt. "*

7. From the above meaning assigned to the two terms found in Section 33(1)(b) & 33(2)(b) of the Industrial Dispute Act, it is clear that if the Management / Employer intends taking action against an employee for a delinquency, which is subject matter of a proceeding before the Labour Court or a Tribunal, there must be a prior permission obtained, it cannot be a post-facto approval.



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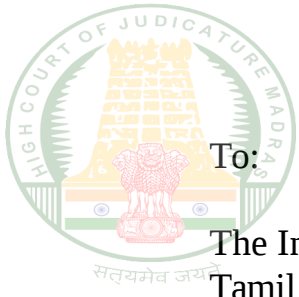
8. In the case on hand, the application itself states that an order of termination was passed on 02.04.2024 and the application for approval is also dated 02.04.2024. It is therefore, clear that the application, though is filed under Section 33(1)(b), is actually one under 33(2)(b). The learned single Judge has rightly found that the disciplinary proceedings and the order of termination relate to the question of deputation, which is an issue in O.P.No.33 of 2021.

9. We are therefore, unable to fault the writ Court for having dismissed the writ petition. These Writ Appeals therefore, fail and they are accordingly, dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

(R.S.M., J.) (G.A.M., J.)
23.04.2025

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Index: No
Speaking order
Neutral Citation :No



To:

The Industrial Tribunal,
Tamil Nadu, Chennai.

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R.SUBRAMANIAN, J.
and
G. ARUL MURUGAN, J.

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W.A.No. 1231 of 2025 etc., batch
and Connected Miscellaneous Petitions

23.04.2025