



W.P.No.5108 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2025

CORAM :

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

W.P.No.5108 of 2015

and

MP.No.1 of 2015

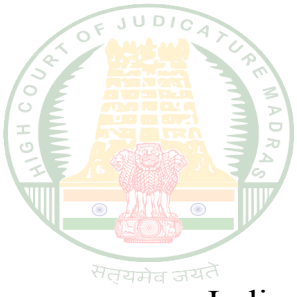
M/s. P.ORR & Sons Pvt. Ltd.,
Rep. by its Director,
No.855, Mount Road,
Madras – 600 002.

...Petitioner

Vs.

1. The Presiding Officer,
Second Additional Labour Court,
Chennai.
2. The Management,
Thenur, Madurai.
3. T.Selvamani (*Deceased*)
4. S.Ramamani Valli
5. Suchitra
6. Srivijay
7. Sivabalan

(R4 – R7 impleaded as LR's of the deceased 3rd respondent,
vide order dated 11.02.2022 made in
WMP.No.35272 of 2017 in W.P.No.5108 of 2015) ...Respondents



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Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for the records of the award passed by the 1st respondent herein made in I.D.No.205 of 1988 dated 12.11.2014 and quash the same.

For Petitioner : Mr.R.Parthiban,

For Respondents : No Appearance, for R2 & R3
: R1 – Court

ORDER

This Writ Petition has been filed by the petitioner seeking quashment of the award passed by the 1st respondent in I.D.No.205 of 1988 dated 12.11.2014.

2. The case of the petitioner/management is that the 3rd respondent was originally appointed on 26.09.1964 on probation and was subsequently transferred permanently to the service of the 2nd respondent in December 1975 by mutual consent due to surplus staffing and the said transfer was done with continuity of service and protection of service conditions under section 25FFF of the Industrial Disputes Act, with corresponding transfer of terminal liabilities and provident fund account. Since then, the 3rd respondent served exclusively under the control and



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the supervision of the 2nd respondent and was paid by them. While so, on 27.12.1984, the 2nd respondent issued a charge memo against the 3rd respondent for certain misconduct alleged to have committed by the 3rd respondent and subsequently, after conducting enquiry, the 3rd respondent was dismissed from service on 03.05.1985. Aggrieved by the same, the 3rd respondent raised an Industrial dispute in I.D.No.205 of 1988 before the 1st respondent, who in-turn passed the present impugned award dated 12.11.2014 holding that the 3rd respondent is the workman under the petitioner and fastened the liability upon the petitioner for payment of backwages and all other monetary benefits till the date of superannuation. Aggrieved by the same, the petitioner management has filed this Writ petition.

3. Learned counsel for the petitioner submitted that, admittedly, the 3rd respondent was initially appointed as electrician under the petitioner and was subsequently transferred to the 2nd respondent-sister concern in the year 1975 and he was in continuous employment of the said sister concern till raising of the dispute and there is no employer-employee relationship in between the petitioner and the 3rd respondent



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4. Though notice was served and the name of the 2nd respondent was printed in the cause list and though Mr.G.Devadoss, learned counsel entered appearance on behalf of the 3rd respondent, none



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appeared on behalf on the respective respondents and till date, the petitioner has not taken effective steps to serve notice on the impleaded respondents 4 to 7. However, considering the period of pendency of this Writ petition, this Court is inclined to dispose of the same based on the materials available on record.

5. Admittedly the 3rd respondent initially entered the services of the petitioner as Electrician in the year 1964 and it is the claim of the petitioner that, the then Managing Director one Chockalingam, transferred the 3rd respondent to the 2nd respondent, which is a sister concern of the petitioner. However, the said transfer order was not produced either before the labour court or before this Court. Even if it is a oral transfer, it was not substantiated before the labour court by examining proper evidences.

6. It is not in dispute that the 2nd respondent is the sister concern of the petitioner management and the Managing Director of the petitioner establishment is the Director of the 2nd respondent. Hence, there is no



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much difference in the management of the petitioner company and the 2nd respondent.

7. Further, considering the fact that the 3rd respondent had rendered 21 years of service and that the award passed by the Labour Court was of the year 2014 and at this distant point of time, after a lapse of about 11 years, till date, the award was not implemented. Further, it is brought to notice of this Court that during the pendency of this writ petition, the 3rd respondent passed away and his Legal heirs were brought on record as respondents 4 to 7 herein. Hence, there is no possibility for ordering reinstatement. However, in order to strike a balance between the petitioner Management and the 2nd and 3rd respondents, this Court is inclined to fix a sum of Rs.2,00,000/- (Rupees Two Lakhs only) as full quit compensation payable by the petitioner in favour of the respondents 4 to 7, the Legal Heirs of the 3rd respondent within a period of four weeks from the date of receipt of a copy of this order.



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04.03.2025

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

To

The Presiding Officer,
Second Additional Labour Court,
Chennai.



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M.DHANDAPANI, J.

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