



W.P.Nos.5477 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

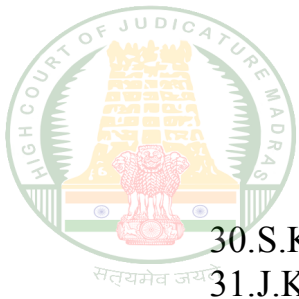
DATED : 03.03.2025

CORAM

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

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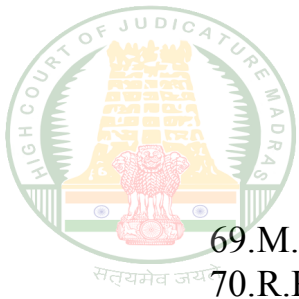
1. V.Sugumaran
2. N.Krishnamurthy
3. S.Abdul Kareem
4. V.Amarnath Rao
5. S.Ananthakrishnan
6. A. V.Aravamuthan
7. R.Aravamuthan
8. V.Arumugam
9. S.Arunachalam
10. M.Ayyappan
11. K.Balachandar
12. K.Bharathi
13. S.R.Chandrasekaran
14. V.Dhakshinamoorthy
15. K.Dayalan
16. K.Devan
17. P.Dhanalakshmi
18. A.Dhanapal
19. D.Dhanapalan
20. V.Govindaswamy
21. M.R.Gowri
22. S.Hemalatha
23. K.Jayakumar
24. Y.Jayakumar
25. S.Jayam
26. S.Jayarangababu
27. S.Jayashree
28. E.Jayaraman
29. T.R.Kalyani



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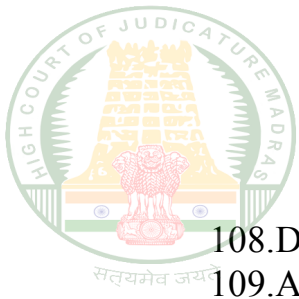
- 30.S.Kannan
- 31.J.Karunakaran
- 32.S.Kothandam
- 33.C.S.D.Kripakaran
- 34.P.Krishnamurthy
- 35.J.Krishnan
- 36.M.Kuppan
- 37.R.Magendran
- 38.M.Mahalingam
- 39.K.Mahendran
- 40.K.Mani
- 41.V.Mani
- 42.T.Mani
- 43.D.Mari
- 44.M.Mariappan
- 45.M.Meenakshy
- 46.S.Mohan
- 47.S.Muninagarathinam
- 48.N.Munavar Sultana
- 49.C.Murugan
- 50.T.Nagarajan
- 51.R.Nagarathinam
- 52.L.Natarajan
- 53.P.Natarajan
- 54.Noel Kant
- 55.S.Neelakandan
- 56.J.Packianathan
- 57.S.Palani
- 58.V.Palanisamy
- 59.R.Parthasarathi
- 60.R.Perumal
- 61.B.Poongaithai
- 62.N.Radhakrishnan
- 63.P.N.Raghuraman
- 64.N.Rajagopal
- 65.E.Rajeswari
- 66.P.R.Rajeswari
- 67.R.Rajeswari
- 68.R.Raju



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- 69.M.Ramachandran
- 70.R.Ramadurai
- 71.N.Ramanathan
- 72.D.Ravichandran
- 73.S.Ravikumar
- 74.S.R.Ravishankar
- 75.P.P.Ramanathan
- 76.M.Rose Bai
- 77.S.Sandrasekaran
- 78.K.Shankaran
79. N.Shankaran
- 80.D.Santhanam
81. V.Sekar
82. V.Sekar
- 83.M.Selvaraj
84. V.Selvaraj
- 85.H.Sethuraman
- 86.S. V.Shankaran
- 87.G.Shantha
- 88.L.Sheik Hasheem
- 89.N.Sitharthanan
- 90.B.Sivakumar
- 91.S.Sivakumar
- 92.K.Somasundaram
- 93.P.Somasundaram
- 94.K.G.Sreedharan
- 95.K.Sridharan
- 96.C.S.Srinivasan
- 97.K.Srinivasan
- 98.S.K.Srinivasan
- 99.T.Srinivasan
- 100.O.P.Subramanaian
- 101.V.Subramaniam
- 102.A.Sudhakar
- 103.V.Sundar
- 104.P.Thangaraju
- 105.Usharani Venkatesan
- 106.R.Vasudevan
- 107.N.Veeraraghavan



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108.D.Velappan

109.A.Velayutham

110.G.Venu

111.R.Pandaribai

112.N.Manimegalai

113.D.Banumathi

114.V.Vijayakumari

115.A.Peyarejan

116.R.Sunitha

...Petitioners

Vs.

1. The Presiding Officer,
First Additional Labour Court,
Chennai.
2. The Managing Director,
M/s Pentafor Products Ltd.,
(Auto Division), Maraimalai nagar
Registered office, 332/2 Arcot Road,
Kodambakkam, Chennai – 600 024.
3. G.Chandrasekaran
4. S.Subramaniam
5. V.Chandran

...Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the order dated 10.09.2014 passed in claim Petition No.10/2013 of the first Respondent and quash the same and further direct the second respondent to pay salary to the petitioners herein from 01.10.2002 to 31.10.2012.



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For Petitioners : Mr.R.Rajmohan
for M/s.T.Hemalatha

For Respondents : R1 – Court
Mr.C.K.Chandrasekar, for R2
Not Ready Notice, for R3
No Appearance, for R4 & R5

ORDER

This Writ petition has been filed seeking quashment of the order passed by the 1st respondent dated 10.09.2014 in Claim Petition No.10 of 2013 and to consequently direct the 2nd respondent to pay salary to the petitioners herein from 01.10.2002 to 31.10.2012.

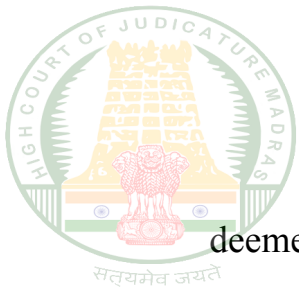
2. It is the case of the petitioners that, the management on 01.08.2001 had declared 'suspension of operation' as they were incurring huge losses and the company as it also became sick, it was referred to BIFR as a sick company for providing a rehabilitation scheme. It was registered as case No.249 of 2002. In the meanwhile, the Madras-Chenglepet General Workers' Union (of which the petitioners were members), had raised an dispute on 12.03.2001 stating that the suspension of operation was illegal and the dispute was conciliated by the Assistant Commissioner of Labour-II, Chennai and he gave a failure



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report dated 22.8.2001. The State Government upon receipt of the failure report, by its order dated 14.02.2003 had referred the dispute for adjudication by the Industrial Tribunal at Chennai. The dispute was taken on file by the Industrial Tribunal as I.D.No.32 of 2003. The Tribunal by its award dated 21.02.2006 held that suspension of operation was illegal and void and further held that workmen including petitioners were entitled to get reinstatement together with wages as well as other attendant benefits from the date on which the management gave the notice for suspending its operation, i.e., on 01.08.2001. Even during the pendency of the industrial dispute, the workers led by one V.Sugumaran and 100 others filed a claim petition under Section 33-C(2) of the Industrial Dispute read with Section 33-C(5), claiming salary for the period from 01.06.2001 to September, 2002 for a period of 16 months. It was admitted in the claim statement that the dispute relating to suspension of operation raised by the Madras-Chenglepet General Workers' Union was pending conciliation. During the pendency of these proceedings, a settlement under Section 12(3), dated 19.4.2006 was reached between the union and the management. In that settlement, it was agreed that the union will not press the Award in I.D.No.32 of 2003 and that all workers whose names were mentioned in the annexure were



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deemed to have resigned the job on 31.07.2001. The arrears of wages

payable to the workmen upto 31.07.2001 are set out in annexure I. The

Writ petition in W.P.No.15640 of 2007 was filed by the management/the

2nd respondent herein challenging the order passed in C.P.No.724 of 2002

on the file of the First Additional Labour Court, Chennai and to quash

the order dated 13.02.2007 and the same was allowed, vide order of this

Court dated 15.06.2012. Aggrieved the said order, the petitioners

preferred Writ appeal in WA.No.2115 of 2012. Pending the appeal, the

petitioners filed claim petition in CP.No.10 of 2013 seeking to compute

the benefits payable to the petitioners on the basis of the award passed in

ID.No.32 of 2003. The Labour Court had referred to the earlier

proceedings and the order of this Court passed in WP.No.15640 of 2007.

The tribunal had also taken note of the fact that the Writ appeal filed as

against the order passed in the Writ petition was pending. Ultimately, the

Labour Court dismissed the said claim petition, vide impugned order.

Challenging the same, the petitioners have come up with this Writ

petition.

3. Heard learned counsel on either side and perused the materials available on record.



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4. This Court is not going into the merits of the contentions advanced by the learned counsel on either side. It is brought to the notice of this Court that, subsequently, a final order came to be passed in the Writ Appeal No.2115 of 2012. For better appreciation, the relevant portion of the judgment passed in Writ Appeal No.2115 of 2012 dated 28.06.2021, which covers the issue raised in this Writ petition is extracted as hereunder:

“3. The first respondent is a company registered under the Indian Companies Act. The appellants and the respondents 3 to 25 were working as employees of the respondent company for the past several years. Whiles, since the respondent company had incurred huge loss, it had declared suspension of operation on 01.08.2001. Therefore, it was referred to BIFR as a sick company for providing a rehabilitation scheme. Pending proceedings, Madras-Chenglepet General Workers- Union, in which, the appellants were also members, raised an industrial dispute on 12.03.2001 stating that the suspension of operation was illegal. Thereafter, after the failure report dated 22.08.2001 submitted by the Assistant Commissioner of Labour-II, Chennai, the State Government referred the dispute for adjudication before the Industrial Tribunal at Chennai, on 14.02.2003. The Tribunal, by its award dated 21.02.2006 passed in I.D.No.32 of 2003, held that suspension of operation was illegal and void and further held that workmen were entitled to get reinstatement together with wages as well as



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other attendant benefits from the date on which the management gave the notice for suspending its operation i.e., on 01.08.2001. Subsequent to the award, a settlement under Section 12(3) of the Industrial Disputes Act (in short 'ID Act') was reached on 19.04.2006 between the first respondent management and the appellants- union, in which, Clause 3 of the Terms of the Settlement dated 19.04.2006 reads as follows:-

“3. That the amount specified in the annexure shall be accepted and is received by each workmen as full and final settlement of all claims due from the company on the clear understanding that there will be no claim whatsoever by any worker or workmen against the management thereafter as the claim proceedings initiated before the Labour forum are withdrawn and the Court award in I.D.No.32 of 2003 is treated as not pressed and settled.”

The above said document was marked as Ex.R4 and during the course of examination, the first appellant, who was examined as PW.1 has admitted the existence of settlement. Learned Single Judge, by taking note of the above said document and also citing various legal precedents of the Hon-ble Apex Court, held that the Labour Court is not competent to exercise the jurisdiction under Section 33-C(2) of the ID Act to arrogate to itself the functions of an Industrial Tribunal, and accordingly, learned Single Judge reversed the order passed by the Labour Court in C.P.No.724 of 2002, dated 13.02.2007.

4. It is contended by the learned counsel for the appellants that since the Labour Court had already passed an award in I.D.No.32 of 2003, dated 21.02.2006, holding that the



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suspension of operation by the respondent company was illegal, which also became final and concluded, it goes without saying that pre-existing rights adjudicated upon by the appellants have been once for all decided. Therefore, it is not open to the learned Single Judge to hold that without having pre-existing rights, they cannot lay their claims under Section 33-C(2) of the ID Act. In addition thereto, he has also contended that settlement reached under Section 12(3) on 19.04.2006 clearly says that there was a pre-existing rights and therefore, it is not correct to say that the appellants are not having pre-existing rights to lay their claim under Section 33-C(2) of the ID Act.

5. But we are unable to find any merits therein. At the outset, it may be mentioned that after the suspension of operation on 01.08.2001, there was a dispute between the appellants- union and the first respondent management and thereafter, the matter was conciliated before the Conciliation Officer/Assistant Commissioner of Labour-II, Chennai, but, since it was ended in failure, the Government, by order dated 14.02.2003, referred the dispute before the Industrial Tribunal at Chennai for adjudication. The Tribunal, after hearing both parties, by award dated 21.02.2006 passed in I.D.No.32 of 2003, held suspension of operation was illegal and void and further held that workmen were entitled to get reinstatement along with consequential backwages. Whiles, as could be seen from Clause 3 of the Terms of Settlement reached under Section 12(3) of the ID Act on 19.04.2006 extracted supra, it is to be noted that the said award dated 21.02.2006 deciding the pre-existing rights of the workmen was already withdrawn by



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the workmen. This being the factual position, it is not known how the learned counsel for the appellants say that the application filed under Section 33-C(2) of the ID Act before Labour Court is based on the pre-existing rights. We wish to make it clear that had the award passed in I.D.No.32 of 2003, dated 21.02.2006, been allowed to stay without getting it withdrawn, then he was right. But, unfortunately, the said award was subsequently withdrawn and thereby there was no any pre-existing right available to move application under Section 33-C(2) of the Act.

6. Secondly, learned Single Judge has also framed an issue that whether the impugned order passed by the Labour Court is legally sustainable and whether the labour Court can go into the question of validity of settlement under Section 12(3) in a proceeding under Section 33-C(2) of the Industrial Disputes Act? Taking support of the judgment of Hon-ble Apex Court in the case of State of U.P. vs. Brijpal Singh reported in [(2005) 8 SCC 58], learned Single Judge held that the Labour Court cannot go into the correctness of settlement reached under Section 12(3) of the ID Act. Therefore, in our considered view, the Labour Court has messed up without knowing the basic issue that in an application filed under Section 33-C(2) of the ID Act, the Labour Court cannot go into the question whether the workman is entitled to any benefit and that the workmen must have a pre-existing right to the benefits which can be computed in terms of money (A reference can be had from Municipal Corporation of Delhi Vs. Ganesh Razak and another [1995 (1) SCC 235]. In the case on hand, as stated



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above, the award dated 21.02.2006 passed by the Industrial Tribunal was subsequently withdrawn by the workmen in a settlement reached under Section 12(3) of the ID Act on 19.04.2006. Therefore, there was no any pre-existing right available, hence, we are of the considered view that the Labour Court cannot arrogate to itself the functions of an Industrial Tribunal and entertain the claim made by the workmen which is not based on a pre-existing right. Hence, the Labour Court had no jurisdiction to adjudicate the claim made by the workmen herein under Section 33-C(2) of the I.D. Act in an undetermined claim. Thus, on this score, we do not find any reason to interfere with the well-reasoned order passed by the learned Single Judge.

In fine, for the reasons stated above, the Writ appeal fails and it is dismissed by confirming the order passed by the learned Single Judge. No costs.”

5. It is further brought to the notice of this Court that, as against the above said judgment, the petitioners herein filed a Review application and the same is pending. In view of the above, nothing survives for further adjudication in this Writ petition.



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WEB COPY 6. Accordingly, this Writ petition stands dismissed with a liberty to the petitioners to workout their remedy in the manner known to law, if they succeed in the Review application filed by them as against the judgment made in W.A.No.2115 of 2012 by the Hon'ble Division Bench of the court. No cost.

03.03.2025

skt

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

To:

The Presiding Officer,
First Additional Labour Court,
Chennai.



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M.DHANDAPANI, J.

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