



W.P.Nos.9968, 35092 and 35087 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.04.2025

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.9968, 35092 and 35087 of 2019

And

W.M.P.Nos.10538, 35884 and 35881 of 2019

The Management
NEPC Tea Garden
(A Division of NEPC Agro Foods Ltd.,)
Valparai. ... Petitioner in W.P.9968/2019

The Management of Waterfall Estate Pvt. Ltd.,
Waterfall Estate Post,
Valparai – 642 105.
Rep. by its Group Manager ... Petitioner in W.Ps.35092 &
35087/2019

Vs.

1.A.Abdul Mazeeth

2.The General Manager
Waterfall Estate Group,
Waterfall Estate Post Office,
Valparai – 642 104. ... Respondents in W.P.9968/2019

1.A.Abdul Majeeth

2.The Management of
N.E.P.C. Tea Garden Ltd.,
Kavarkkal Estate,
Waterfall Post,
Valparai – 642 105. ... Respondents in W.Ps.35092 &
35087/2019



W.P.Nos.9968, 35092 and 35087 of 2019

Prayer in W.P.No.9968 of 2019:

WEB COPY Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the entire records pursuant to the order dated 04.02.2016 in I.D.No.76 of 2011 on the file of the Presiding Officer, Labour Court, Coimbatore and quash the same

Prayer in W.P.No.35092 of 2019:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the Labour Court, Coimbatore in I.D.No.76 of 2011 and quash its award dated 04.02.2016 in so far as directing reinstatement of the first respondent with the back wages by the petitioner.

Prayer in W.P.No.35087 of 2019:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the Labour Court, Coimbatore in E.P.No.02 of 2019 in I.D.No.76 of 2011 and quash its order dated 05.12.2019 in so far as the petitioner is concerned.

For Petitioners : Mr.L.Chandrakumar
in W.P.No.9968 of 2019
Mr.S.Haroon Ali Rasheed
for M/s.Agam Legal Advocates
in W.P.Nos.35092 & 35087 of 2019

For Respondents : Mr.S.Vijayaganesh for R1
Mr.S.Haroon Ali Rasheed for R2
for M/s.Agam Legal
in W.P.No.9968 of 2019
Mr.S.Vijayaganesh for R1
Mr.S.Saravanan for R2
in W.P.Nos.35092 & 35087 of 2019



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COMMON ORDER

The petitioner in W.P.No.9968 of 2019 is the employer of the first respondent workman. The petitioner in W.P.Nos.35092 and 35087 of 2019 is the lessee of the petitioner in W.P.No.9968 of 2019. Aggrieved by the award passed by the Labour Court, Coimbatore in I.D.No.76 of 2011, both the employer and lessee have filed W.P.Nos.9968 and 35092 of 2019. For non payment of backwages, the first respondent had filed E.P.No.02 of 2019 in I.D.No.76 of 2011 and aggrieved by the order passed in the said execution petition, the lessee has filed W.P.No.35087 of 2019.

2.Since the issue involved in these writ petitions are interrelated, they are heard together and disposed of by way of a common order. For brevity, the petitioner in W.P.No.9968 of 2019 would be hereinafter referred to as 'Employer'; the petitioner in W.P.Nos.35092 and 35087 of 2019 would be hereinafter referred to as 'Lessee'.

3.The learned counsel appearing for the Employer submitted that the first respondent workman was reinstated in the service of NEPC Tea Garden during the year 2019 by way of reinstatement order. The

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learned counsel further submitted that the order of dismissal was passed during the year 2011 and order of reinstatement was passed during the year 2019 and in the interregnum the first respondent workman would have been gainfully employed anywhere. Though the first respondent pleaded that he was not gainfully employed anywhere, it has to be established before the Labour Court, then only, the Labour Court can order for backwages and prayed to set aside the backwages alone awarded by the Labour Court.

4.The learned counsel appearing for the Lessee submitted that the Lessee undertook NEPC Tea Garden for some period and the Lessee did not pass any appointment order or termination order as against the first respondent workman and hence fastening liability against the Lessee is not sustainable one.

5.The learned counsel appearing for the first respondent Workman submitted that the first respondent was appointed by NEPC Tea Garden and order of dismissal was also passed by NEPC Tea Garden. In the interregnum the first respondent workman was not gainfully employed anywhere and the backwages till date amounts to Rs.36 Lakhs and prayed for appropriate orders.



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6.The facts of the case is not in dispute. As against the order of reinstatement and backwages, the writ petitions have been filed. Subsequently, the first respondent workman was reinstated in service. Now the only issue that has to be decided is that who has to pay backwages to the first respondent.

7.Admittedly, Waterfall Estate Private Limited is the Lessee of NEPC Tea Garden and it has not issued appointment order or dismissal order to the first respondent. Only NEPC Tea Garden has issued appointment order and dismissal order to the first respondent. Hence, NEPC Tea Garden alone has to pay the backwages to the first respondent.

8.Considering the fact that NEPC Tea Garden is not running profitably and inorder to strike the balance, this Court fix a lumpsum amount of Rs.7 Lakhs as backwages to the Workman. The Management of NEPC Tea Garden/ petitioner in W.P.No.9968 of 2019 is directed to pay a sum of Rs.7,00,000/- (Rupees Seven Lakhs Only) in full quit to the first respondent Workman, within a period of six weeks from the date of receipt of a copy of this order, failing which,

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the Management of NEPC Tea Garden would be liable to pay interest at the rate of 7.5% p.a., from the date of writ petition in W.P.No.9968 of 2019 till the date of actual payment.

9.The writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

15.04.2025

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

To

1.The Presiding Officer,
Labour Court,
Coimbatore.



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M.DHANDAPANI,J.
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