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W.P.No.12391 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2025

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.12391 of 2022

And

W.M.P.Nos.11854 of 2022, 40655 and 40656 of 2024

Sri Ramnarayan Mills Limited
Periyanaickenpalayam,
Coimbatore – 641 020
Rep. by its Managing Director

... Petitioner

Vs.

Mr.P.Damotharaswami

... Respondent

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari and call for the records relating to the order dated 11.11.2021 passed by the Hon'ble Industrial Tribunal, Chennai in A.P.No.2 of 2012 and to quash the same.

For Petitioner : Mr.R.Jayaprakash
For Respondent : Mr.S.Saravanan

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorari and call for the records relating to the order dated 11.11.2021 passed by the Industrial Tribunal, Chennai in A.P.No.2 of



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2012 and to quash the same.

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2.The learned counsel appearing for the petitioner submitted that the recognized union of the petitioner submitted a request to declare 13.01.2010 as a working day instead of 14.01.2010 since 14.01.2020 and 15.01.2010 happened to be festival holidays and accordingly, it was decided to treat 13.01.2010 as a working day and 14.01.2010 as a holiday. On 12.01.2010 at about 3.50 p.m., the respondent wrote in BMS Union notice board informing its members not to report duty shift on 13.01.2010 and the respondent and 23 co-workman did not report duty on 13.01.2010 and hence, the petitioner issued show cause notice to the respondent and since the explanation given by him was not satisfactory, domestic enquiry was conducted and after enquiry, he was dismissed from service vide order dated 28.08.2010. There, the petitioner filed approval petition under Section 33 (2) (b) of the Industrial Disputes Act, before the Industrial Tribunal, Chennai, however, the Tribunal dismissed the approval petition.

3.The learned counsel appearing for the petitioner further submitted that since the respondent and 23 co-workman did not report duty on 13.01.2010, the petitioner sustained huge loss, thereby, the



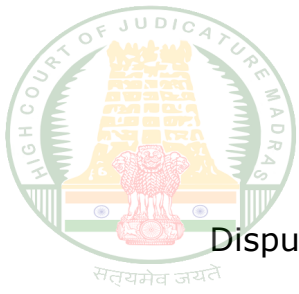
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petitioner initiated disciplinary proceedings against the respondent and dismissal order was passed, however, the Tribunal arrived at a conclusion that enquiry was not conducted following the principles of natural justice. The learned counsel further submitted that the rejection of approval petition is not in terms of Section 33 (2) (b) of the Industrial Disputes Act and the Tribunal dismissed the approval petition in terms of Section 2 A (2) of the Industrial Disputes Act, which cannot be accepted and hence, the impugned order warrants interference.

4.The learned counsel appearing for the respondent submitted that though the petitioner filed approval petition and let in evidence, even then, the Tribunal is vested with power to see whether any prima facie evidence is available for issuing order of dismissal.

5.Heard the learned counsel appearing for the petitioner as well as the learned counsel appearing for the respondent and perused the materials available on record.

6.The approval petition has to be decided after letting in evidence and only in terms of Section 33 (2) (b) of the Industrial



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Disputes Act and in terms of the decision of the Hon'ble Apex Court reported in AIR 1978 © 1004 (Lalla Ram Vs. DCM chemical Works), as per which, principles of natural justice has to be complied, the Tribunal has to see whether prima facie evidence is available for issuing order of dismissal, whether one month salary is paid or not and simultaneously application was filed. In the present case, the Industrial Tribunal without considering all the aspects, has adjudicated the issue as if the petition has been filed under Section 2 A (2) of the Industrial Disputes Act, which is not sustainable one.

7.In view of the above, the writ petition is allowed. The order dated 11.11.2021 passed by the Industrial Tribunal, Chennai in A.P.No.2 of 2012 is set aside. Liberty is granted to the respondent to raise industrial dispute under Section 2 A (2) of the Industrial Disputes Act, before the competent forum. If any such dispute is raised by the respondent, the competent forum shall consider the said industrial dispute on merits and in accordance with law; and without being influenced by any of the observations made in the impugned order and in this order shall decide the dispute, as expeditiously as possible. The period during which the writ petition was pending before this Court is excluded for the purpose of limitation.



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8.The writ petition is allowed. No costs. Consequently,
connected miscellaneous petitions are closed.

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Index: Yes/ No

Speaking Order: Yes/ No

NCC: Yes/ No

To

1.The Industrial Tribunal,
Chennai.



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