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W.P. No.12223 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.06.2025

CORAM

THE HONOURABLE Mr. JUSTICE P.DHANABAL

W.P. No.12223 of 2022

and

W.M.P. Nos.11671, 11672, 11674 & 19130 of 2022
and 13353 of 2025

M. Nagaraj S/o. Muthappa

.. Petitioner

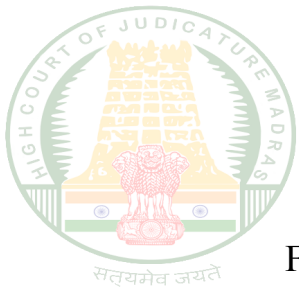
vs.

The Management,
Micro Labs Limited,
92, SIPCOT Industrial Complex,
Phase-I, Hosur - 635 126.

.. Respondent

PRAYER: The Writ petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorarified Mandamus calling for the impugned order passed by the Labour Court, Hosur in I.A. No.2 of 2021 in I.D. No.2/2020 dated 02.05.2022 and quash the same and consequently direct the respondent Management to pay the petitioner's last drawn wage from the date of his dismissal i.e., 04.10.2017 till the completion of the proceedings in O.P. 2/2020 on the file of the Labour Court, Hosur.

For Petitioner : Mr. Balan Haridas



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For Respondent : Mr.M. Vijayan,
for M/s. King and Patridge
ORDER

This Writ petition has been filed by the petitioner to quash the order passed by the Labour Court, Hosur in I.A. No.2 of 2021 in I.D. No.2/2020 dated 02.05.2022 and quash the same and consequently direct the respondent Management to pay the petitioner's last drawn wage from the date of his dismissal i.e., 04.10.2017 till the completion of the proceedings in O.P. 2/2020 on the file of the Labour Court, Hosur, wherein the petitioner herein raised an industrial dispute in I.D. No.2 of 2020 before the Labour Court, Hosur. While pending proceedings, he filed yet another application in I.A. No.2 of 2021 to direct the management to pay last drawn wages as Subsistence Allowance by way of an interim relief to the petitioner from the date of dismissal till the disposal of the main petition and the same was dismissed by the Labour Court. Aggrieved over the said order, the present Writ petition has been filed.

2. The learned counsel appearing for the Writ petitioner would submit that the petitioner has been employed in the petitioner Management since 13.05.1993 and he was terminated by the Management through an order dated 04.10.2017. The respondent Management, without issuing the Show Cause Notice and Charge Memo, straight away issued the dismissal order.



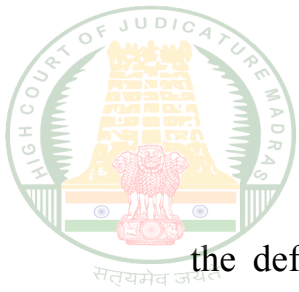
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Therefore, the petitioner challenged the said order by raising an industrial dispute before the Labour Court, Hosur and the same is pending in I.D. No.2 of 2020. The respondent Management questioned the maintainability of the petition on the ground that the petitioner will not come under the definition of 'workman' and now the case is pending for adjudication. Since the Management, without conducting an enquiry, terminated the service of the petitioner, he is entitled for the subsistence allowance by way of an interim relief during the pendency of the proceedings. But the Labour Court failed to consider the same and erroneously dismissed the petition. Therefore, the present Writ petition has been filed.

2.1. In support of his contention, the learned counsel for the petitioner has relied upon the judgment of this Court in (i) ***A. Ashok Kumar and 11 others vs. The Management, Mega Rubber Technologies Pvt. Ltd., in W.P. No.18397 of 2023*** and (ii) ***Lenin Kumar Ray vs. M/s. Express Publications (Madurai) Ltd., reported in [2024] 10 S.C.R. 2303.***

3. The learned counsel appearing for the respondent Management would submit that the petitioner was working as a Senior Executive - Packing, a position in managerial and supervisory cadre of the company and his last drawn salary was Rs.37,500/- per month. Therefore, he will not come under



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the definition of 'workman' as defined under Section 2(s) of the Industrial Disputes Act. When the main petition itself is pending and maintainability itself is in question, the petitioner is not entitled to any interim relief. The Labour Court has passed an elaborate order stating that without deciding whether the petitioner comes under the definition of 'workman' as defined under Section 2(s) of the Industrial Disputes Act, the interim relief cannot be granted. Therefore, the order passed by the Labour Court is in order and the present Writ petition is liable to be dismissed.

3.1. In support of his arguments, the learned counsel appearing for the respondent Management has relied upon the following judgments:

3.1.1. *Uttar Pradesh State Road Transport Corporation vs. Gajadhar Nath reported in (2022) 3 Supreme Court Cases 190.*

3.1.2. *Bharat Petroleum Corpn. Ltd., and another vs. N.R. Vairamani and another reported in (2004) 8 Supreme Court Cases 579.*

4. Heard both sides and perused the entire materials available on record.

5. In this case, there is no dispute that the petitioner was working under the respondent Management and the relationship between them as 'employer' and 'employee'. It is also not disputed that the petitioner was terminated from



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service. The main contention raised by the petitioner is that without conducting any enquiry, he was terminated from service by the respondent Management. Therefore, it is against principles of natural justice. According to the respondent, the very applicability of the Act itself is disputed and the petitioner was working as Senior Executive - Packing, a position in managerial and supervisory cadre of the company and his last drawn salary was Rs.37,500/- per month, and thereby, he will not come under the purview of 'workman' as defined under Section 2(s) of the Industrial Disputes Act. The main case is posted for enquiry and the same is pending adjudication. While so, the petitioner has filed this petition for the payment of Subsistence Allowance as interim relief. The Subsistence Allowance can be paid only during the period of suspension. In the case on hand, the petitioner was terminated from service and thereby, he is not entitled to Subsistence Allowance.

6. The learned counsel appearing for the petitioner has relied upon judgment in *A. Ashok Kumar and 11 others vs. The Management, Mega Rubber Technologies Pvt. Ltd., in W.P. No.18397 of 2023*, wherein this Court ordered for interim relief pending disposal of the main petition. The above said case law will not be applicable to the present facts of the case, because in the said case, there is no dispute in respect of the applicability of



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the Act and the petitioners are the workmen. In the case on hand, the applicability of the Act and whether the petitioner is a workman or not itself is in dispute. Therefore, if any interim order passed, it will cause prejudice to the main case.

7. The learned counsel for the petitioner has also relied upon the judgment in *Lenin Kumar Ray vs. M/s. Express Publications (Madurai) Ltd., reported in [2024] 10 S.C.R. 2303*. On perusal of the said judgment, it is seen that it will not be applicable to the present facts of the case, because it is in respect of the meaning of the term 'workman' as defined under Section 2(s) of the Industrial Disputes Act. Since the main petition is pending before the Labour Court, it is not appropriate to discuss whether the petitioner comes under the definition as defined under Section 2(s) of the Industrial Disputes Act as 'workman' or not. Even according to the petitioner, he did not mention about his last drawn salary, whereas the respondent Management, in its counter, stated that the petitioner's last drawn salary was Rs.37,500/- per month. The main question as to whether the petitioner is a 'workman' as defined under Section 2(s) of the Industrial Disputes Act, itself is in dispute, hence it has to be decided by the competent Authority after elaborate enquiry. Therefore, at this stage, without deciding the point as to whether the petitioner



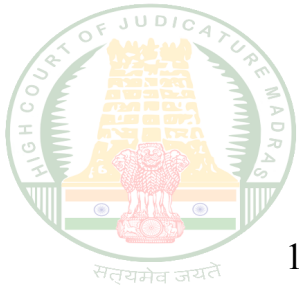
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is a workman or not, he is not entitled to any interim relief.

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8. As far as the judgments relied on by the learned counsel appearing for the respondent in ***(i) Uttar Pradesh State Road Transport Corporation vs. Gajadhar Nath reported in (2022) 3 Supreme Court Cases 190*** and ***(ii) Bharat Petroleum Corpn. Ltd., and another vs. N.R. Vairamani and another reported in (2004) 8 Supreme Court Cases 579*** are concerned, on a careful perusal of the above judgments, it is clear that Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases. Disposal of cases by blindly placing reliance on a decision is not proper. In the case on hand also, the judgment relied on by the petitioner, was on different foot. The Labour Court, after elaborate discussions, passed a well reasoned order and there is no illegality or perversity found in the order passed by the Labour Court, hence it does not warrant interference.

9. Thereore in view of the above said discussions, this Court is of the opinion that this petition has no merits and deserves to be dismissed.



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10. Accordingly, this Writ petition is dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

26.06.2025

Index : Yes/No
Speaking order/non-speaking order
mjs

To

1. The Presiding Officer,
The Labour Court,
Hosur.

2. The Management,
Micro Labs Limited,
92, SIPCOT Industrial Complex,
Phase-I, Hosur - 635 126.

P. DHANABAL, J.,

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