



W.P. Nos.1225/2024, etc. Batch

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	Pronounced on
30.04.2025	11.06.2025

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

**W.P. NOS. 1225, 7075, 8364, 8366, 8970, 9127, 9455, 9462,
9464, 9470, 9459, 12845, 19481, 20470, 26591 OF 2024
AND
1267, 8255, 9894, 9899, 9993, 10154, 10457, 10463,
10450, 10451, 10456, 14009, 17396 & 22419 OF 2024**

The Management
Magna Automotive India Pvt. Ltd.
RNS-11, SIPCOT Industrial Growth Centre
Oragadam, Vadakkupattu Post
Sriperumbudur Taluk
Kancheepuram District 603 204.

.. Petitioner in all petitions

- Vs -

1. Deputy Commissioner of Labour
(Conciliation)
Irunkattukottai, Sriperumbudur 602 105... R-1 in all the petitions

- | | |
|-------------------------|-------------------------|
| 2. P.Sathishkumar | .. R-2 in WP 1125/2024 |
| 3. Carmel Vijayan | .. R-2 in WP 7075/2024 |
| 4. S.Sathishkumar | .. R-2 in WP 8970/2024 |
| 5. S.Karumpulli Raja | .. R-2 in WP 9127/2024 |
| 6. S.S.Karthikeyan | .. R-2 in WP 8364/2024 |
| 7. E.Ramesh | .. R-2 in WP 8366/2024 |
| 8. J.Johnson Leo Prabhu | .. R-2 in WP 12845/2024 |



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9. N.Karthikeyan	.. R-2 in WP 9455/2024
10. K.M.Vignesh	.. R-2 in WP 9459/2024
11. E.Sathishkumar	.. R-2 in WP 9464/2024
12. M.Balaji	.. R-2 in WP 9470/2024
13. R.Ananthan	.. R-2 in WP 9462 /2024
14. S.Shagul Hamed Badusha	.. R-2 in WP 19481/2024
15. S.Selvam	.. R-2 in WP 20470/2024
16. K.Dhanasekaran	.. R-2 in WP 26591/2024

Writ Petitions filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorari 824, 841, 825, 826, 836, 834, 827, 828, 831, 833, 832, 829, 835 & 840 of 2021 dated 16.12.2022 passed by the Deputy Commissioner of Labour, (Conciliation – 1), Sriperumbudur, and quash the same.

For Petitioner : Mr. Gowtham S.Raman

For Respondents : Mr. S.Kumarasamy for R-2
Mr. K.Surendran, AGP for R-1

COMMON ORDER

Assailing the orders in and by which the approval petitions filed by the petitioner was rejected by the 1st respondent in respect of the order of dismissal passed by the petitioner against the respective 2nd respondent, the present writ petitions have been filed by the petitioner.



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2. The brief facts necessary for the disposal of the present writ petitions are as under :-

3. The respective 2nd respondents were working under the petitioner as workmen in various capacities. Due to certain acts perpetrated by the respective 2nd respondents, which were in violation of Rules 16 (n), 16 (v) and 16 (z) of the Model Standing Orders, disciplinary proceedings were initiated against the said respondents and upon completion of the disciplinary proceedings, the respondents were found guilty of the charges framed against them and accordingly an order of dismissal was passed against them and the respective 2nd respondents were removed from service with effect from 3.11.2021 by paying one month salary and final settlement of the amounts due and payable to them. Since a dispute u/s 2 (k) was pending adjudication before the appropriate judicial forum, the petitioner filed the present petitions u/s 2 (A) (2) of the Industrial Disputes Act seeking approval of the order of dismissal before the 1st respondent.

4. The 1st respondent, taking the approval petitions on file, upon hearing the workmen as also the management, held that the dismissal of the workmen



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from service was unfair labour practice adopted by the management and there were violations of principles of natural justice in the enquiry conducted and, therefore, dismissed the approval petitions filed by the petitioner. Aggrieved by the said order of rejection of the approval petitions, the present petitions have been filed by the Management.

5. Learned counsel appearing for the petitioner submitted that the findings rendered by the 1st respondent are grossly erroneous, misconceived and not on the basis of the materials available on record. It is the further submission of the learned counsel that the petitioner has afforded sufficient opportunity to the respective 2nd respondents whilst the conduct of the enquiry and all the procedural aspects of enquiry were followed before dismissing the workmen from service. However, the 1st respondent has not appreciated the materials in proper perspective and had passed the impugned order, which deserves to be dismissed.

6. However, without prejudice to the aforesaid contentions, an additional affidavit has been filed on behalf of the petitioner wherein the petitioner has



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submitted that pending the writ petitions, due to the precarious financial position of the petitioner management, the management had transferred their right to one SKHM India Pvt. Ltd., on a slump sale basis with effect from 1.7.2024. the relevant portion of the additional affidavit reads as under :-

“6. I submit that as part of a business decision the petitioner company sold its undertakings at Orgadam, Pune and Sanand to SKHM India Private Limited (SKHM) on a slump sale basis, with effect from 1st July, 2024.

7. It is respectfully submitted that since 1st of July, 2024, the petitioner management has parted with their factory in view of the financial position and the fact that the transfer took place on 1st of July, 2024, it is submitted that the buyer namely, SKHM India Private Limited (SKHM) was willing to take back the 170 workers on roll of the factory but as far as the 2nd respondent worker and certain other workers with whom matters are pending before this Hon’ble Court the buyer was not willing to take them on his roll since they were involved in certain disciplinary actions.

8., It is respectfully submitted that in view of the transfer that took place on 1st of July, 2024, the services of the respondent workmen stand terminated and if they are not taken on roll by the new employer, they are only entitled to compensation under section 25-FF of the Industrial Disputes Act, 1947. As far the petitioner and his workmen are concerned the relationship of the employer, employee cease to be in operation by virtue of the



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transfer of the undertaking. The petitioner herein has complied with the orders of this Hon'ble Court and has been paying the 17-B wages during the pendency of this writ petition, though the 2nd respondent is no longer in the petitioner's employment. The service of employer having come to an end by virtue of such transfer, it is just and necessary that the order granting relief under Section 17-B ought to be reconsidered.

9. I respectfully submit that even if the workers were to succeed, they will only be entitled to backwages upto the date of transfer and not beyond it. Even otherwise if the workers are allowed backwages beyond the date of transfer it will be difficult to recover the money at a later stage. As far as the petitioner is concerned, they are willing to pay compensation entitled u/s 25-FF of the Industrial Disputes Act, 1947 and any eligible gratuity and leave encashment, if any. The workmen are also gainfully employed now as reliably learnt by the petitioner's management."

7. Learned counsel appearing for the respective 2nd respondents submitted that the order of the 1st respondent is fair, proper and reasonable and it is based on the ratio laid down in ***Lalla Ram – Vs – Management of DCM Chemicals (AIR 1978 SC 1004)***. The 1st respondent, appreciating the materials placed before it, applying the ratio laid down in the *Lalla Ram (case)* has held that the petitioner had adopted unfair labour practice and, had, therefore, rejected the approval



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petition. The petitioner, without continuing the 2nd respondents in service, had approached this Court and, this Court as well, even had directed the petitioner to pay the wages u/s 17-B of the Industrial Disputes Act, which has been paid by the petitioner. However, merely because there is change of management, the petitioner cannot absolve itself of its liability to continue the workmen in employment. It is, however, fairly submitted by the learned counsel for the 2nd respondents that considering the fact that the management had changed hands and that the petitioner is no longer in management this Court give a quietus to the case by awarding a lumpsum compensation, beneficial to the respective 2nd respondents considering the mental trauma that the workmen have been made to undergo due to the said dismissal, as quantification of compensation based on the additional affidavit of the petitioner alone would not be suffice as it would only lead to multiplicity of litigation as a consensus on the amount would once again be a point for litigation.

8. On the above submission of the learned counsel for the 2nd respondents, this Court heard the learned counsel for the petitioner, who submitted that this Court, considering the period of service rendered by the respective 2nd



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respondents and the benefits to which they are entitled to like gratuity, leave encashment, etc., and also the 17-B wages drawn by them, may fix a lumpsum compensation which would not be in detriment to the petitioner.

9. Lumpsum compensation in lieu of reinstatement has been considered by the courts and in this regard, it would be prudent to refer to the decision of the Apex Court in ***O.P. Bhandari Vs. Indian Tourism Development Corpn. Ltd. & Ors. (1986 (4) SCC 337 :: MANU/SC/0475/1986)***, wherein, the Apex Court considering the beneficial aspect in respect of both the employer and the employee and without there being any hard feelings, though it fit to grant compensation in lieu of reinstatement, considering the length of service put in and the attainment of superannuation by most of the persons therein. In this regard, the Apex Court held thus :-

“7. So far as the facts of this case are concerned, we are satisfied that this is a fit case for granting compensation in lieu of reinstatement, instead of granting 'reinstatement'. For, it cannot be said that the apprehension voiced by the respondent-Corporation as regards the negative consequences of reinstatement is unreasonable. We do not propose to pronounce on the validity or otherwise of the allegations and counter



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allegations made by the parties in their respective affidavits. Suffice it to say that the relations between the parties appear to have been strained beyond the point of no return. The Trade Union of the employees has lodged a strong protest and even held out a threat of strike, in the context of some acts of the Appellant. Such unrest among the workmen is likely to have a prejudicial effect on the working of the undertaking which would prima facie be detrimental to the larger National interest, not to speak of detriment to the interest of concerned undertaking. We are not impressed by the submission that the Union is virtually a 'company's Union. In any case such disputed questions of facts cannot be resolved in this forum. We are prima facie satisfied that the apprehension is not ill-founded. What is more, reinstatement is perhaps not even in the interest of the appellant as he cannot give his best in the less-than-cordial-atmosphere and it will also result in misery to him, let alone the other side. Neither the undertaking nor the appellant can improve their image or performance, or, achieve success. In fact it appears to us that both sides will be unhappy and miserable. These are valid reasons for concluding that compensation in lieu of reinstatement, and not reinstatement, is warranted in the circumstances of the present case."

10. Yet again, in ***Workmen and Ors. Vs. Bharat Fritz Werner (P) Ltd. and Ors. (1990 (3) SCC 565 :: MANU/SC/0470/1990***), the Apex Court, reiterating the



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benefits of granting compensation in lieu of reinstatement, taking cue from the decision in *Bhandari's case (supra)*, held as under :-

"21. Reinstatement has not been considered as either desirable or expedient in certain cases where there had been strained relations between the employer and the employee, when the post held by the aggrieved employee had been one of trust and confidence, or when though dismissal or discharge was unsustainable owing to some infirmity in the impugned order, the employee was found to have been guilty of an activity subversive or prejudicial to the interests of the industry (Hindustan Steel Ltd. v. A.K. Roy MANU/SC/0315/1969 : (1970)ILLJ228SC . In cases where it is felt that it will not be desirable or expedient to direct reinstatement the workman is compensated monetarily by awarding compensation in lieu of reinstatement for loss of future employment.

* * * * *

23. In O.P. Bhandari v. Indian Tourism Development Corporation Ltd. and Ors. MANU/SC/0475/1986 : (1986)ILLJ509SC this Court has held that compensation equivalent to 3.33 years' salary (including allowances) as admissible on the basis of the last pay and allowances would be a reasonable amount to award in lieu of reinstatement. In that case the Court has taken into consideration the fact that the corpus, if invested at the prevailing rate of interest (15%), will yield 50% of the annual salary and allowances and the workman would get



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50% of what he would have earned by way of salary and allowances with four additional advantages :

(i) He will be getting this amount without working.

(ii) He can work somewhere else and can earn annually whatever he is worth over and above, getting 50% of the salary he would have earned.

(iii) If he had been reinstated he would have earned the salary upto the date of superannuation (upto 55, 58 or 60 as the case may be) unless he died earlier. As against this 50% he would be getting annually he would get not only beyond the date of superannuation, for his life time (if he lives longer), but even his heirs would get it in perpetuity after his demise.

(iv) The corpus of lump sum compensation would remain intact, in any event."

11. Very many decisions have been relied on by the learned counsel appearing for either parties. However, the said decisions are not being taken into consideration in view of the fact that this Court is not deliberating the correctness of the impugned order; rather, the whole case now rests on the compensation that is determinable by this Court, which would be just and reasonable to both sides, which could be paid to the workmen to give a quietus to the litigation.



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Therefore, this Court is not venturing into any of the decisions that have been relied on, on behalf of the parties.

12. Considering the stand taken by the learned counsel appearing on either side and also the decisions supra, and also considering the fact that the respective 2nd respondents are said to have been gainfully employed, which is not disputed by the learned counsel appearing on their behalf and also the fact that 17-B wages has been paid to them till date by the petitioner and the management having transferred hands and it would not be in the interest of either party to further litigate the matter, this court is of the considered view that a lumpsum compensation in lieu of reinstatement would be in the best interests of either party, as each party could very well proceed in their own way putting an end to the continuous and contiguous litigation.

13. In the aforesaid circumstances, taking into consideration all the aforesaid factors, is inclined to fix a sum of Rs.6,00,000/- (Rupees Six Lakhs only), to be paid to each of the 2nd respondent by the petitioner as compensation in full quit in lieu of their reinstatement and it is made clear that the aforesaid workmen



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within a period of four weeks from the date of receipt of a copy of this order, failing which the said amount would attract interest at 7.5% p.a. from the date of the dismissal of the workmen till the date of payment. It is further made clear that on payment of the aforesaid sum within the time stipulated by this Court above, the workmen would not be entitled to any other monetary compensation from the company.

14. These writ petitions are disposed of with the aforesaid observations and directions. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

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Index : Yes / No

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To

Deputy Commissioner of Labour
(Conciliation)
Irunkattukottai, Sriperumbudur 602 105.



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**PRE-DELIVERY ORDER IN
W.P. NOS. 1225, 7075, 8364,
8366, 8970, 9127, 9455, 9462,
9464, 9470, 9459, 12845, 19481,
20470, 26591 OF 2024**



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9464, 9470, 9459, 12845, 19481, 20470, 26591 OF 2024**

M.DHANDAPANI, J.

These writ petitions are listed today at the instance of the learned counsel for the respondents/workmen.

2. It is submitted by the learned senior counsel for the workmen that in para-12 of the order dated 11.6.2025, it has been recorded on the basis of the statement made by the appellant that the respective 2nd respondent/workmen in the writ petitions were gainfully employed, which has been accepted by the learned counsel for the 2nd respondent. Learned counsel for the 2nd respondent/workmen submits that no such concedement was made and, therefore, it is pleaded that necessary correction may be made with regard to the above in para-12 of the aforesaid order.

3. Learned counsel appearing for the petitioners submit that they have no objection to making the said correction in the aforesaid order dated 11.6.2025.



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4. In view of the above stand taken by the learned counsel on either side, para-12 of the order dated 11.6.2025 shall stand substituted with the following :-

“12. Considering the stand taken by the learned counsel appearing on either side and also the decisions supra, and also considering the fact that the respective 2nd respondents have been paid the 17-B wages till date by the petitioner and the management having transferred hands and it would not be in the interest of either party to further litigate the matter, this court is of the considered view that a lumpsum compensation in lieu of reinstatement would be in the best interests of either party, as each party could very well proceed in their own way putting an end to the continuous and contiguous litigation.”

5. Registry is directed to make the aforesaid correction in the order dated 11.6.2025 and issue order copy to the parties.



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9464, 9470, 9459, 12845, 19481, 20470, 26591 OF 2024**

M.DHANDAPANI, J.

These writ petitions are listed today at the instance of the learned counsel for the respondents/workmen.

2. It is submitted by the learned counsel for the workmen that though the workmen did not accept for receiving any compensation from the petitioner and vehemently opposed compensation and sought only reinstatement, however, inadvertently, in para-7 of the order, it has been recorded as if the workmen had accepted for receiving lumpsum compensation and, therefore, he prays that necessary modification may be made to para-7 of the order dated 11.6.2025.

3. Learned counsel appearing for the petitioners submit that they have no objection to making the said correction in the aforesaid order dated 11.6.2025.

4. In view of the above stand taken by the learned counsel on either side, para-7 of the order dated 11.6.2025 shall stand substituted with the following :-



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*“7. Learned counsel appearing for the respective 2nd respondents submitted that the order of the 1st respondent is fair, proper and reasonable and it is based on the ratio laid down in **Lalla Ram – Vs – Management of DCM Chemicals (AIR 1978 SC 1004)**. The 1st respondent, appreciating the materials placed before it, applying the ratio laid down in the Lalla Ram (case) has held that the petitioner had adopted unfair labour practice and, had, therefore, rejected the approval petition and, therefore, no interference is warranted with the said order.”*

5. Registry is directed to make the aforesaid correction in the order dated 11.6.2025 and issue order copy to the parties.

03.07.2025

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