



WEB COPY



W.P.No.19513 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.04.2025

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.19513 of 2019

Western Express (P) Ltd., Workers Union,
Represented by its Secretary
Mr.R.Velaudham

... Petitioner

Vs.

The Management of Western Express P. Ltd.
Thethurai Vill & Post,
Cheyar – Taluk,
Thiruvannamalai District.

... Respondent

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for records and quash the award dated 24.08.2017 passed by the Presiding Officer, I Additional Labour Court, Chennai in I.D.No.254 of 2007 and consequently direct the respondent to reinstate the petitioner union members with full backwages along with the interest @ 18% PA from the date of filing of petition to the date of its realisation.

For Petitioner : Mr.Manoj Kumar
For Respondent : NRN

O R D E R

The petitioner has filed this writ petition seeking issuance of

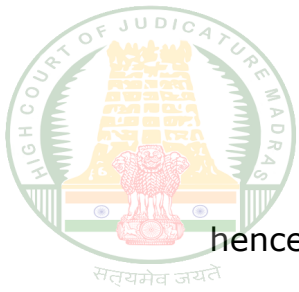


W.P.No.19513 of 2019

Writ of Certiorarified Mandamus to call for records and quash the award dated 24.08.2017 passed by the Presiding Officer, I Additional Labour Court, Chennai in I.D.No.254 of 2007 and consequently direct the respondent to reinstate the petitioner union members with full backwages along with interest @ 18% PA from the date of filing of petition to the date of its realisation.

2.The learned counsel appearing for the petitioner submitted that the petitioner union has filed this writ petition challenging the award passed in I.D.No.254 of 2007 on the ground that the Labour Court justified denial of employment to the members of the petitioner union and refused to order for backwages from 23.01.2005 in which no work was given.

3.The learned counsel appearing for the petitioner further submitted that during the month of January, 2025 all of a sudden the respondent company denied wages and employment to the petitioner union members and even after repeated demands, the respondent company refused to provide employment and hence the petitioner union was forced to raise dispute and even after a period of one year the respondent did not come forward to settle the issue amicable and



W.P.No.19513 of 2019

hence the Conciliation Officer submitted a failure report dated 02.02.2006 and thereafter the Government of Tamil Nadu by order in G.O.(D) No.40, Labour and Employment (B2) Department dated 25.01.2007 referred the following issue for adjudication to the Labour Court:

- (i) Whether the demand of the trade union claiming wages for the period for which no work was given from 23.01.2005 is justified? If so, what is the relief?
- (ii) Whether the demand of the trade union claiming again employment to all workmen is justified? If so, what is the relief?

4.The learned counsel appearing for the petitioner further submitted that the dispute was taken up for adjudication before the I Additional Labour Court, Chennai in I.D.No.254 of 2007 and the Labour Court passed exparte award on 30.01.2010 holding that the demand of the trade union claiming wages for the period for which no work was given from 23.01.2005 and demand of the trade union claiming again employment to all the workmen are justified and held that the workmen are entitled to backwages from 23.01.2005 till reinstatement, continuity of service and all other attendant benefits. Thereafter, the respondent filed interlocutory applications to condone



W.P.No.19513 of 2019

the delay in filing the restoration petition and for restoring the industrial dispute and the same were allowed and thereafter the impugned order was passed.

5.The learned counsel appearing for the petitioner further submitted that the Labour Court arrived at a conclusion that the respondent company itself was closed in the year 2005 and when the company itself is closed, reinstatement is not feasible. The learned counsel further submitted that even if the company is closed, the closure has to be approved by the Government and retrenchment compensation has to be paid to the workmen.

6.Heard the learned counsel appearing for the petitioner. Though the case is of the year 2019, the petitioner has not taken effective steps to serve notice on the respondent. Considering the pendency of the writ petition, this Court is inclined to proceed with the case and decide the same based on the materials available on record.

7.Perusal of records disclose that the respondent company had two units one at Vandavasi and another at Thethurai. Admittedly, Vandavasi unit was closed in the year 2005. The members of the



W.P.No.19513 of 2019

petitioner union were working in Vandavasi unit. When the company was closed in the year 2005, the industrial dispute was referred to the Labour Court. When the company itself was closed, reinstatement or payment of wages from 2005 does not arise. If at all the petitioner union have any grievance for retrenchment compensation or closure compensation, it has to be adjudicated separately before appropriate forum and not by way of industrial dispute.

8.In view of the above, the writ petition is dismissed. No costs.

15.04.2025

pri

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

To

1.The Presiding Officer,
I Additional Labour Court,
Chennai.



WEB COPY



W.P.No.19513 of 2019

M.DHANDAPANI,J.
pri

W.P.No.19513 of 2019

15.04.2025