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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.04.2025

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THE HON'BLE Mr. JUSTICE M.DHANDAPANI

W.P. No. 12131 of 2020 and 33214 of 2024
and WMP. No.14875 of 2020

The Management,
Anaimudi Estate,
M/s.BBTC Ltd.,
Valparai – 641 127.

... Petitioner in both the writ petitions

-vs-

S.Mariammal

... Respondents in both the writ petitions

Prayer in W.P.No.13729 of 2020:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari calling for the records of the learned Additional labour Court, Coimabtoe pertaining to the order dated 07.02.2020 made in C.P.No.235 of 2013 and quash the same.

Prayer in W.P.No.33214 of 2024 : Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified mandamus calling for the records of the Presiding Office, Industrial Tribunal. Chennai pertaining the order dated 15.07.2024 made in IA. No.119 of 2024 in unnumbered Apprval Oetition in ID. No.26 of 2010 and quash the same and consequently direct the reconstruction of the Approval Petition dated 22.02.2010 filed in ID No.26 of 2010.



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For Petitioner : Ms.Aishwarya S.Nathan
(in both the petitions)
For Respondent : Mr.S.Saravanan (in both the petitions)

COMMON ORDER

Since the issue involved in both the cases are one and the same, the same are disposed of by way of this common order.

2. It is the case of the petitioner that the respondent was appointed as a probationary workman with the petitioner herein from 01.05.2007. However, she was highly irregular in her attendance from the time of her appointment onwards. Despite various warnings and intimations, the respondent continued to be highly irregular and continuously absent. The petitioner herein issued a show cause notice dated 28.08.2009 calling upon the respondent to show cause regarding her continuous absence from work. The respondent received the notice and issued a response dated 10.09.2009 wherein she admitted her continuous absence and further expressed her inability to return to work. She also refused to participate in the enquiry. The petitioner herein issued a charge sheet dated 28.12.2009 to the respondent. Having received the said notice, the respondent chose to remain silent and failed to attend the enquiry so conducted. The respondent was then issued with another notice dated 31.03.2010 calling upon her to show cause why the proposed punishment of dismissal should not

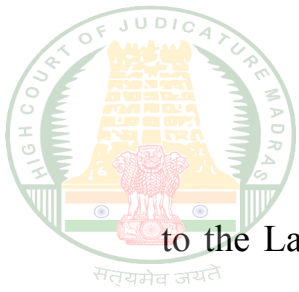


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be imposed. However, she once again failed to respond. After due consideration of materials on record, the petitioner passed an order dated 13.05.2010 imposing the punishment of termination from service. Subsequently, after a lapse of three years from dismissal, the respondent filed computation petition No.235 of 2013 claiming a sum of Rs.1,56,354.80/- as wages for the period 04.05.2010 to 30.04.2013. The additional Labour Court, Coimbatore vide order dated 07.02.2020 allowed the application and directed the petitioner herein to pay the sum as claimed to the respondent. The petitioner is constrained to file the present writ petitions challenging the impugned order dated 07.02.2020 and 15.07.2024 passed by the Labour Court.

3. The learned counsel for the Management submitted that admittedly, after dismissal order, the ID was filed before the Labour Court and the said bundle was misplaced. Hence, the petitioner filed an IA No.119/2024 for reconstruction of the approval petition and the same was dismissed. Without deciding the approval petition, ordering computation petition by the Labour Court is not correct and the same has to be set aside.

4. The learned counsel for the respondent submitted that this Court may restore the approval petition filed before the Labour Court and issue a direction



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to the Labour Court to decide the approval petition and liberty granted to the respondent to workout the remedy after disposal of the approval petition in the manner known to law.

5. Heard the learned counsel for the Management and the learned counsel for the workman and perused the materials placed on record, apart from the pleadings of the parties.

6. A perusal of the materials available on reveals that as against the dismissal of the workman, the approval petition has been filed invoking the provisions of Section 2(a)(ii) of the ID Act by the Management. Pending the said approval petition, the workmen filed C.P.no.235 of 2013 claiming backwages for a sum of Rs.1,56,354/- for the period 04.05.2010 to 30.04.2013. The Labour Court allowed the C.P.No.235/2013 which is the subject matter of W.P.No.12131 of 2020. However, the approval petition seeking approval of the dismissal has not yet reached finality. In the absence of the approval petition have not been finalised by the Labour Court, it was not just and proper for the Labour Court to have disposed of the computation petition in C.P.no.235/2013 as the decision in the approval petition will have a bearing on the decision in the computation petition.



WEB COPY 7. It is brought to the notice of this Court that the approval petition could not be disposed of as the case bundle is missing. If the case bundle is not traceable, the proper course open to the Court below was to reconstruct the bundle, decide the approval petition and thereafter, take up the computation petition. However, before deciding the approval petition, the computation petition has been disposed of, which cannot be sustained.

8. In such view of the matter, this Court sets aside the computation petition in C.P.no.235 of 2013 dated 07.02.2020 passed by the Labour Court and the Labour Court is directed to reconstruct the approval petition and decide the same after providing opportunity to the either parties and dispose of the same within a period of twelve weeks from the date of receipt of a copy of this order. Liberty is granted to the workmen to work out his remedy after disposal of the approval petition in the manner known to law. Till the disposal of the approval petition, the Labour Court is directed to keep the amount which has been already deposited by the Management. The amount shall be disbursed subject to the result of the approval petition.

M.DHANDAPANI, J.



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9. With the above directions, the writ petitions are allowed. No costs.

Consequently, connected miscellaneous petition is closed.

23.04.2025

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Index: Yes/No

Internet: Yes/No

Speaking /Non-speaking order

Neutral Case Citation : Yes/No

To

1. The Principal Labour Court, Vellore

W.P. No. 12131 of 2020 and 33214 of 2024

Dated : 23.04.2025