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W.P.No. 19726 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2025

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THE HONOURABLE MR.JUSTICE HEMANT CHANDANGOUDAR

W.P No. 19726 of 2023

S.Vijaykumar

..Petitioner

Vs

M/s. Larsen & Toubro Limited,
Business Unit,
Represented by its factory manager,
Manapakkam,
Chennai-600089,
Tamilnadu

..Respondent

Writ Petition is filed under Article 226 of Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records pertains to the impugned award dated 09.02.2023 made in I.D.No. 134 of 2014, on the file of 3rd Additional Labour Court, Chennai and setaside the same, consequently direct the respondent to reinstate the petitioner in his service with backwages, continuous of services and all other attendant benefits.

For Petitioner : Mr. P.R.Thiruneelakandan

For Respondent : Mr. Sanjai Mohan

For M/s. S.Ramasubramaniam and
Associates



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ORDER

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Today, this writ petition is listed under caption for 'Further hearing' at the instances of the respondents, and upon hearing the arguments advanced by both sides, the following order is passed.

The captioned writ petition has been filed seeking the issuance of a writ of certiorarified mandamus, assailing the order dated 09.02.2023 passed by the Industrial Tribunal in I.D. No. 134 of 2011. By the said order, the Industrial Dispute raised by the writ petitioner under Section 2A(2) of the Industrial Disputes Act, 1947 came to be dismissed.

2. The petitioner asserts that he possesses an ITI Certificate and that on 05.11.2002, he was employed in the respondent's factory as an Act Apprentice for a period of one year, which came to an end on 04.11.2003. Thereafter, he was appointed as a trainee on 01.12.2003, though no training was ever imparted to him. Instead, he performed all duties akin to those of a permanent workman. He was engaged as a Machine Operator and was initially paid wages of Rs. 2,575/- per month.



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3. In the course of employment, the petitioner was transferred to the respondent's factory unit at Sembrampakkam, and while he was working at the Mannapakkam factory, his services were terminated on 17.01.2011, the pretext that his training period was to come to an end on 17.01.2011. He was consequently denied employment with effect from the said date. The petitioner contends that he was in continuous employment with the respondent from 01.12.2003 to 17.01.2011, i.e., for a period of about eight years, and therefore, he is entitled to the benefits and protection available under the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981.

4. It is further contended that his engagement as a trainee was only a camouflage to deny him the status and benefits of a permanent workman. Consequently, the termination of his services is arbitrary, illegal, and in clear violation of Section 25(F) of the Industrial Disputes Act, 1947 and the Industrial Employment (Standing Orders) Act, 1946.

5. Aggrieved by such termination, the petitioner raised an industrial dispute before the Labour Officer (Conciliation), Sriperumbudur. The conciliation proceedings ended in failure, and the Conciliation Officer



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submitted a failure report dated 05.06.2013. Having no alternative remedy, the petitioner thereafter approached the Labour Court by filing a claim under Section 2A(2) of the Industrial Disputes Act, 1947.

6. The Labour Court framed six issues for consideration. To substantiate his case, the petitioner examined himself as WW1 and produced 42 documents marked as Ex.W1 to Ex.W42. On the other hand, the respondent management examined one witness as MW1 and produced 20 documents marked as Ex.M1 to Ex.M20. Upon appreciation of oral and documentary evidence, the Labour Court held that (i) the dispute raised by the writ petitioner was barred by limitation, (ii) there existed employer-employee relationship between the petitioner and the respondent, and (iii) the petitioner's engagement came to an end by efflux of time as he was appointed as a trainee. Being aggrieved by the said findings, the present writ petition has been filed.

7. Mr. P.R. Thiruneelakandan, learned counsel for the writ petitioner, submitted that the industrial dispute was raised well within the period of limitation prescribed under law. However, the Labour Court, by erroneously construing the provisions of Section 2A(2) as amended by the Tamil Nadu Amendment Act, 1988, held that the dispute was barred by limitation, which



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finding, according to him, is patently untenable.

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8. Learned counsel for the writ petitioner further submitted that the documents marked as Ex.W1 to Ex.W36 unequivocally demonstrate that the petitioner was not a trainee, but was continuously working as a regular Machine Operator in the respondent's establishment. It was his contention that the respondent management, with a mala fide intention to deprive the petitioner of the benefits available to permanent workmen, issued appointment orders with artificial breaks by designating him as a "trainee" despite extracting regular work from him.

9. Learned counsel further argued that the termination of the petitioner's services is in gross violation of Section 25(F) of the Industrial Disputes Act, 1947, inasmuch as no notice or retrenchment compensation was paid prior to termination. The Labour Court, he contended, ignored these material aspects and failed to consider the documentary evidence produced, thereby rendering the impugned order contrary to law and unsustainable.

10. Mr.Sanjay Mohan, learned counsel for the respondent submitted that the Industrial Dispute raised by the petitioner/workman was barred by limitation. He further submitted that the petitioner/workman was not an



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employee of the respondent-company at the time of termination of his services and he was employed in L&T Plastic Machinery Limited, which is evident from Ex.19-Termination Order. The learned counsel for the respondent further submitted that the petitioner was working only as trainee on temporary basis and not on regular employment and therefore, the impugned award passed by the labour Court does not warrant any interference.

11. Heard both sides and perused the materials available on record.

12. The following points arise for consideration in this writ petition:

- I. Whether the industrial dispute raised by the writ petitioner under Section 2A(2) of the Industrial Disputes Act, 1947, is barred by limitation?
- II. Whether the writ petitioner has established the existence of an employer-employee relationship between himself and the respondent?
- III. Whether the termination of the petitioner's services was in violation of Section 25(F) of the Industrial Disputes Act, 1947?

Point No. I

13.1. It is an admitted fact that the petitioner was discharged from service on 17.01.2011. Under Section 2A(1) of the Industrial Disputes Act, 1947, the dismissal, discharge, or retrenchment of an individual workman shall be



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deemed to be an industrial dispute, notwithstanding that no other workman or trade union is a party to such dispute.

13.2. Sub-section (2) of Section 2A provides that any workman referred to in sub-section (1) may make an application directly to the Labour Court or Tribunal for adjudication of the dispute after the expiry of 45 days from the date of making an application to the Conciliation Officer for conciliation. Upon receipt of such application, the Labour Court or Tribunal shall have the jurisdiction to adjudicate the same. However, the State of Tamil Nadu, by way of the Tamil Nadu Amendment Act, 1988, substituted sub-section (2) of Section 2A to provide that where no settlement is arrived at in the course of conciliation proceedings, the aggrieved workman may apply to the Labour Court in the prescribed manner for adjudication of such dispute, and the Labour Court shall proceed to adjudicate as if the dispute had been referred to it by the appropriate Government.

13.3. Section 2A(2) must be read conjointly with Section 12 of the Industrial Disputes Act, 1947, which prescribes the duties of Conciliation Officers. Under sub-section (4) thereof, when no settlement is reached, the Conciliation Officer is required to send a detailed report to the appropriate



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Government setting out the steps taken by him and the reasons for failure of conciliation.

13.4. Furthermore, Section 2A(3) of the Act stipulates that the application referred to in sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment, or otherwise termination of service.

13.5. A reading of the above provisions reveals that under the Central Amendment, a workman may directly approach the Labour Court after 45 days from the date of applying to the Conciliation Officer, without waiting for the submission of a failure report under Section 12(4). However, the Tamil Nadu Amendment Act, 1988 provides that a workman may apply to the Labour Court only after the conclusion of conciliation proceedings, i.e., when no settlement is arrived at under Section 12 of the Act.

13.6. The issue that, therefore, arises is whether the period spent in conciliation proceedings is liable to be excluded while computing the limitation of three years prescribed under Section 2A(3), and whether the Tamil Nadu Amendment Act, 1988, is repugnant to the Central Amendment introduced by



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Act 24 of 2010, which subsequently inserted sub-sections (2) and (3) into Section 2A. Since the State Amendment preceded the Central Amendment, the question of repugnancy and the applicability of Article 254 of the Constitution of India will have to be examined in the context of legislative competence and coexistence of the two provisions.

13.7. A similar issue arose in W.P. Nos. 1949 and 7558 of 2010, decided on 14.06.2011, wherein a Coordinate Bench of this Court, at paragraphs 25, 27, and 28, held that the Tamil Nadu Amendment Act, 1988 is not repugnant to the subsequent Central Amendment introduced by Act 24 of 2010. The Court observed that once a State law receives the President's assent under Article 254(2) of the Constitution, it prevails within that State unless the Parliament expressly amends, varies, or repeals it. Since Act 24 of 2010 does not indicate any intention to override the State law, both enactments can coexist harmoniously. Reliance was placed on *Bhagwat Singh v. State of Rajasthan (AIR 1964 SC 444)* and *M. Karunanidhi v. Union of India (1979) 3 SCC 431*, wherein the Supreme Court held that repugnancy arises only when the two laws are directly inconsistent and irreconcilable. Where both laws can operate in the same field without conflict, no repugnancy exists. Reference was also made to *Ram Chandra Mawa Lal v. State of U.P. (1984 Supp SCC 28)* to reiterate that



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complementary laws can coexist.

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13.8. In *W.P. No. 12036 of 2003, dated 23.08.2011*, this Court followed the decision in *Pt. Rishikesh v. Salma Begum (1995) 4 SCC 718*, holding that the mere enactment of a subsequent Central law does not automatically render a prior State law repugnant unless both are in direct conflict.

13.9. The view taken in *S. Gunasekaran (supra)* was later affirmed by the Division Bench in *W.P. No. 15759 of 2013, dated 14.06.2023*, observing that the issue stood concluded by the decisions in *S. Gunasekaran* and the Supreme Court judgment in *K.A. Annamma v. Secretary, Cochin Co-operative Hospital Society Ltd. (CDJ 2018 SC 017)*.

13.10. In *K.A. Annamma (supra)*, the Supreme Court, at paragraphs 92 and 96, held that where a State enactment, having received the President's assent, conflicts with a Central law, the State law prevails within that State by virtue of Article 254(2).

13.11. The Madurai Bench in *W.P.(MD) No. 15552 of 2015, dated 28.04.2015*, held that under Section 2A(2) of the I.D. Act, a workman may approach the Labour Court within three years from the date of dismissal, and



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sub-section (3) operates independently of conciliation proceedings.

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13.12. Conversely, in *W.P. No. 4269 of 2017, dated 11.04.2017, the Madurai Bench held that in view of Article 254(1), the Central law will prevail to the extent of repugnancy, and that the limitation introduced under Section 2A(3) by the Central Amendment applies with full force in Tamil Nadu.*

14. The period spent in conciliation proceedings should be excluded while computing the three-year limitation prescribed under Section 2A(3) of the Industrial Disputes Act, 1947 for the following reasons:

I. Harmonious construction of Section 2A(2) and (3);

- i. Sub-section (2), as inserted by the Tamil Nadu Amendment Act, 1988, permits a workman to directly approach the Labour Court if conciliation proceedings do not result in a settlement within a specified period.
- ii. Sub-section (3), introduced by the Central Amendment Act 24 of 2010, merely prescribes a limitation period of three years for such approach, but does not expressly state that the time spent in conciliation shall be included.



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iii. A harmonious reading requires that the limitation period under sub-section (3) be computed from the date on which the cause of action finally crystallises, i.e., after the conclusion or failure of conciliation proceedings.

iv. To hold otherwise would defeat the legislative intent behind sub-section (2), which encourages parties to first seek settlement through conciliation before litigating.

II. No repugnancy between State and Central provisions;

- i. The Tamil Nadu Amendment Act, 1988 (which inserted Section 2A(2)) has received the President's assent under Article 254(2).
- ii. The later Central Amendment (Act 24 of 2010) does not contain any provision expressly repealing or overriding the State law.
- iii. As held in *S. Gunasekaran v. The Presiding Officer, Industrial Tribunal*, 2011 (W.P. Nos. 1949 & 7558/2010) and affirmed by the Division Bench in W.P. No. 15759/2013, both enactments can coexist harmoniously.
- iv. Hence, the State amendment continues to operate within Tamil Nadu, and the procedural scheme under Section 2A(2) which inherently contemplates conciliation before adjudication remains unaffected.

III. Principle of beneficial interpretation;



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- i. Labour legislation is remedial and beneficial in nature.
- ii. Excluding the time spent in conciliation accords with the object of the Act ie., to encourage settlement and avoid premature litigation.
- iii. Otherwise, a workman genuinely participating in conciliation could lose his right to adjudication merely due to procedural delay not attributable to him.
- iv. The Madurai Bench decision in W.P.(MD) No. 15552 of 2015 correctly held that Section 2A(3) operates independently of conciliation and does not bar exclusion of the conciliation period.
- v. The contrary view in W.P. No. 4269 of 2017 overlooks the binding effect of Article 254(2) and the settled principle that repugnancy must be narrowly construed.

15. Accordingly, it is held that:

- a) The Tamil Nadu Amendment Act, 1988 and the Central Amendment Act 24 of 2010 operate in distinct yet compatible spheres.
- b) The limitation period under Section 2A(3) is to be computed excluding the period spent in conciliation proceedings initiated under Section 12 of the Act.
- c) There is no repugnancy between the two enactments, and both provisions can validly coexist and be given full effect.



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16. In view of the foregoing discussion, this Court is of the considered opinion that the period spent in conciliation proceedings initiated under Section 12 of the Industrial Disputes Act, 1947, shall be excluded while computing the limitation period of three years contemplated under Section 2A(3) of the Act. The Tamil Nadu Amendment Act, 1988, having received the President's assent under Article 254(2) of the Constitution of India, continues to hold the field and is not rendered repugnant by the subsequent Central Amendment introduced by Act 24 of 2010. Both enactments operate harmoniously within their respective spheres. The order of termination was passed on 17.01.2011, petitioner approached the Labour Officer (Conciliation) on 19.02.2013, failure report was filed on 05.06.2013, and industrial dispute was raised on 26.03.2014. Therefore, excluding the period spent before the labour officer (conciliation) , the industrial dispute raised by the petitioner cannot be held to be barred by limitation, and the contrary finding recorded by the Labour Court is unsustainable. Accordingly, Point No. 1 is answered in the negative and in favour of the petitioner.

17. **POINT No.II :**

17.1. The Labour Court has already held that a relationship of employer



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and employee exists between the petitioner and the respondent. However, the learned counsel for the respondent argued that the petitioner was employed in L&T Plastic Machinery Limited, which is evident from the appointment order marked as Ex.M18 and the termination order marked as Ex.M19.

17.2. The Labour Court relied upon Exhibits W35 to W41, i.e., the pay slips, to prove that the petitioner had performed overtime duty at the Time Office, LTM, Manapakkam. The Labour Court also relied on the additional proof affidavit wherein the petitioner had specifically stated the names of the co-employees who had worked along with him during the year 2011 and, during cross-examination, mentioned the names and designations of the officials who had signed the overtime wage slips. The Labour Court further observed that the pay slips contained the name LTM, Manapakkam, and clarified that RPM Machine Shops refers to Rubber Processing Machinery.

17.3 During the cross-examination of MW1, he admitted that the petitioner/workman was working in the RPM Machine Shop. He further admitted that he was not aware of the signature of N.V. Ramesh, who had signed the pay slips marked as Ex.W35. Referring to the pay slips and the statements of MW1 during cross-examination, the Labour Court concluded that the respondent had not denied the petitioner's employment at RPM Machine Shops, Manapakkam and had



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also admitted the employment of N.V. Ramesh and the authenticity of Ex.W35, W36, and W41.

17.4. Similarly, one Mr. Ethiraj, who had signed Ex.W37, was confirmed as a Supervisor in the Kancheepuram Unit by MW1 in his cross-examination. Therefore, MW1 admitted that the officials who had signed the overtime pay slips were employees of LTM, Manapakkam and not of L&T Plastic Machinery Limited. He also did not deny that LTM Manapakkam and RPM Machinery Shop were in no way connected to M/s. L&T Limited.

17.5. Hence, the burden shifted to the management to prove that the petitioner/workman was employed in L&T Plastic Machinery Limited at Sembarambakkam and not at Manapakkam. However, the respondent/management failed to discharge this burden and could not establish the employer-employee relationship between the petitioner/workman and L&T Plastic Machinery Limited.

17.6. Based on the oral and documentary evidence on record, the Labour Court rightly concluded that there existed an employer-employee relationship between the petitioner/workman and the respondent-management. Accordingly, Point No. II was answered in favour of the petitioner/workman.



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18. Point No. III :

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18.1. The Labour Court answered this issue in the negative, holding that the termination of the writ petitioner could not be said to be in violation of Section 25-F of the Industrial Disputes Act, 1947, since, as on the date of termination, the writ petitioner was working only as a trainee on a temporary basis and not in regular employment.

18.2. It is an undisputed fact that the petitioner/workman initially joined the respondent factory as an Act Apprentice for a period of one year, which came to an end on 04.11.2003. Thereafter, in order to establish that he had worked continuously for more than 240 days in a year, the petitioner produced documentary evidence marked as Exhibits W8 to W42.

18.3. Exhibit W42, being the Standing Orders of the respondent factory, assumes significance, as it does not contain any designation such as “Trainee.” As per Exhibits W3 and W4, namely, the identity card, attendance certificate, and training certificate issued to the petitioner, it is evident that he was appointed as a trainee on 05.11.2002 for a period of one year and completed his apprenticeship on 04.11.2003.

18.4. Further, Exhibits W12, M5, and M6 disclose that the petitioner



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was appointed as a Trainee Fitter from 15.12.2004 to 14.12.2005, and Exhibit W2 indicates that he was again appointed as a Trainee Fitter from 20.11.2006 to 19.11.2007. Similarly, Exhibits W17, W23, and M9 show that he was appointed on a temporary basis as Trainee Fitter from 01.12.2007 to 30.11.2008.

18.5. In the same vein, Exhibits W24, M13, and M15 indicate his appointment as Trainee Fitter from 04.12.2008 to 03.12.2009, and Exhibits W27, W31, and M18 reveal that he was appointed as a Trainee Fitter for yet another period of one year from 18.01.2010 to 17.01.2011.

18.6. Though the appointment orders issued to the petitioner after completion of his apprenticeship described him as a Trainee Fitter on a temporary basis, the photocopies of the pay slips, identity card, and appointment orders demonstrate that the petitioner worked uninterruptedly for more than seven years and was paid regular wages equivalent to those of regular workmen.

18.7. The evidence on record, particularly Exhibits W35 to W41 (covering the period from February 2010 to January 2012), shows that the



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petitioner was even issued payslips reflecting overtime work, further confirming that he was discharging regular duties akin to a permanent employee.

18.8. Therefore, the repeated use of the term “Trainee” in the appointment orders appears to be a camouflage designed to deny the petitioner the status and benefits of a permanent employee under the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981. The petitioner, having continuously worked for over seven years after completion of apprenticeship, cannot be treated as a mere trainee.

18.9. In *Shripal and Another v. Nagar Nigam, Ghaziabad, [(2025) SCC OnLine SC 221]*, the Hon’ble Supreme Court held that the employer’s contention denying the existence of a direct employer-employee relationship was wholly unsubstantiated. The Court observed that no documentary evidence such as contractor licences, agreements, or payment records had been produced to prove that the workmen were engaged through a contractor. On the contrary, evidence demonstrated that the workmen were directly paid and supervised by the Horticulture Department, thereby establishing direct control and supervision the hallmark of an employment relationship. The Court held that



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the absence of any contractor-related documentation exposed the alleged outsourcing arrangement as a mere façade and that termination of such employees without following statutory safeguards was invalid.

18.10. In *Balwant Rai Saluja and Another v. Air India Ltd.*, [(2014) 9 SCC 407], relied upon by the petitioner, the Hon'ble Supreme Court enumerated the key tests for determining the existence of an employer-employee relationship. These include: (i) who appoints the employee; (ii) who pays the salary or remuneration; (iii) who possesses the authority to dismiss; (iv) whether there is continuity of service; and (v) the degree of control and supervision exercised by the employer.

Of these, the extent of control and supervision has been recognized as the most crucial test for identifying the true employer.

18.11 In *General Manager (OSD), Bengal Nagpur Cotton Mills v. Bharat Lal*, [(2011) 1 SCC 635], the Hon'ble Supreme Court ruled that where the contract between a principal employer and a contractor is sham, nominal, or a camouflage intended to deny benefits to employees, the Industrial



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Adjudicator is empowered to pierce the veil and declare the workmen as direct employees of the principal employer. The two well-recognized tests laid down by the Court are:

- (i) whether the principal employer pays wages directly instead of the contractor; and*
- (ii) whether the principal employer controls and supervises the work performed by the employee.*

18.12. In ***Jaggo v. Union of India***, [(2024) SCC OnLine SC 3826], the Hon'ble Supreme Court underscored the systemic exploitation of temporary and contractual employees in public institutions and identified the following forms of abuse;

1. Labeling permanent work as temporary to deny regular benefits;
2. Arbitrary termination without notice or cause;
3. Denial of promotional and career advancement opportunities;
4. Using outsourcing as a device to evade regularization; and
5. Denial of basic statutory benefits such as provident fund, pension, and health insurance.



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The Apex Court held that such practices undermine the dignity, security, and social welfare of the workforce, which are fundamental to labour jurisprudence in India.

18.13. In *Hussainbhai v. Alath Factory Thezhilali Union*, [(1978) 4 SCC 257], the Hon'ble Supreme Court held that when workers produce goods or services for the business of another, that entity is the real employer, regardless of contractual intermediaries. The presence of contractors is immaterial if, in substance, the management exercises economic and supervisory control. The Court emphasized that the judiciary must look beyond mere legal formalities, lift the corporate veil, and expose sham contractual arrangements that conceal the true nature of employment.

19. In the present case, the evidence and documents on record unequivocally establish that the petitioner, after completing his apprenticeship, was successively reappointed under the nomenclature of Trainee Fitter but was, in reality, performing regular and continuous duties, was paid regular wages, and even received overtime payments. The respondent-management's plea that there existed no employer-employee relationship, on the ground that the petitioner was employed under the L&T Business Unit at Manapakkam and



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later transferred to Sembarampakkam, is wholly unsubstantiated.

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20. While the petitioner produced Exhibits W38 to W41 to show that he was working at the Manapakkam plant until his termination, the respondent failed to produce any documentary or oral evidence to the contrary. The inconsistent and contradictory stand taken by the management reveals a deliberate attempt to deny the petitioner the benefit of permanent status, despite extracting full-time services over several years. The repeated issuance of appointment orders under the guise of “trainee” designations was evidently intended to deprive the petitioner of statutory benefits and protection available to permanent employees.

21. Accordingly, the documentary evidence conclusively demonstrates that the petitioner, after completing his apprenticeship, had worked for more than 240 days in the preceding year prior to his termination. Therefore, the termination effected without compliance with the mandatory provisions of Section 25-F of the Industrial Disputes Act, 1947 , relating to notice, retrenchment compensation, and procedural safeguards is arbitrary, discriminatory, and violative of the principles of natural justice.



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22. In view of the foregoing discussion, this Court is of the considered opinion that:

1. the industrial dispute raised by the petitioner-workman was within the prescribed limitation period;
2. there existed a bona fide employer-employee relationship between the petitioner and the respondent; and
3. the termination of the petitioner-workman without complying with Section 25-F of the I.D. Act is illegal, unjustified, and liable to be set aside.

23. Accordingly the following order is passed;

- i. The writ petition is allowed. The Impugned award dated 09.02.2023 passed by the Labour Court in I.D.No. 134 of 2014 is set aside.
- ii. The respondent-management is directed to reinstate the petitioner/workman into service with continuity of service and all attendant benefits. However, the petitioner shall be entitled to 30% of the back wages.
- iii. The respondent-management shall implement this order within a period of two (2) months from the date of uploading of this order on the official website of this Court.
- iv. There shall be no order as to costs.

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Index : Yes/No

Internet : Yes/No

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HEMANT CHANDANGOUDAR, J.
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