



W.P.No.19460 of 2023
and W.P. Nos.20723 of 2022 ; 11178 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 26.08.2025

Orders Pronounced on : **07.11.2025**

CORAM

THE HONOURABLE MR.JUSTICE P. DHANABAL

W.P.No.19460 of 2023
and
W.M.P.No.18720 of 2023

The Management,
Indigra Exports Pvt., Ltd.,
Kattur Mariyamma Kovil,
Adagapadi Village, Dharmapuri.

... Petitioner

Versus

The President,
Indigra Thozhilalargal Sangam,
Reg. No.668/DRP, 2D, Narasimma Achari Street,
Dharmapuri.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, to call for the records connected with I.D.No.37 of 2017 and quash the Award dated 24.01.2023 passed by the learned Presiding Officer, Labour Court, Salem.

For Petitioner : Mr. Vijay Narayanan, Senior Counsel
and M/s. Rohan K. George

For Respondent : Mr. V. Ajoy Khose



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ORDER

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This Writ Petition has been filed challenging the order passed by the Labour Court, Salem in I.D.No.37 of 2017 dated 24.01.2023 and to quash the said order.

2. The short facts necessary for the disposal of this writ petition are as follows:

i) The respondent/Union raised a dispute alleging that the petitioner/Management had, without issuing any prior notice, reduced the backwages payable to certain employees from 01.01.2016. The matter was taken up for Conciliation, which ended in failure, the Government referred the dispute for adjudication before the Labour Court.

ii) The petitioner is a company engaged in the export of granite. The members of the respondent/Union are employees of the petitioner's company. While so, the respondent has raised an Industrial Dispute in I.D. No.37 of 2017 before the Presiding Officer, Labour Court, Salem that, in the petitioner's company more than 100 persons of employees were working, while so, on 01.01.2016, the petitioner/Management unilaterally reduced the salary for 40 employees, who were drawing a higher wage, without issuing any prior notice.



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iii) Further, during the years 2015 to 2016, certain employees, namely, Mr. Nagamani, Mr. Selvasundaram, Mr. Subramani, Mr. Marimuthu and Mr. Chinnasamy, were granted annual increments. As conciliation failed, the dispute was referred to the Labour Court, Salem in I.D.No.37 of 2017.

iv) The further allegation against the petitioner/Management is that certain employees, who were eligible for regularization in service, were also removed from service, and their work was subsequently carried out by directly engaged labourers. Therefore, the affected employees, through their Union, raised an Industrial dispute in I.D. No.37 of 2017 before the Labour Court.

vi) The Labour Court after hearing both sides, allowed the Industrial dispute in I.D. No.37 of 2017 by award dated 24.01.2023, and set aside the reduction of salary with effect from 01.01.2016 and directed the writ petitioner to restore the original wages and pay the differential salary with interest at 6% per annum, and also extended annual increments to 89 employees as granted to the aforementioned 5 employees. Aggrieved by the said award, the petitioner/Management has filed the present writ petition before this Court.

3. The learned Senior Counsel appearing for the petitioner/Management submitted that the impugned award of the Labour Court



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is an error apparent on the face of the record. The Presiding Officer completely failed to consider the memorandum of withdrawal dated 23.04.2021, filed by 20 workmen, who had signed and expressed their intention to withdraw the dispute insofar as it concerned them. These 20 employees formed part of the list under Issue No.2. However, the Labour Court, without considering this withdrawal memo, proceeded to pass the impugned award. The Labour Court erred in concluding that there was non-compliance with Section 9(A) of the Industrial Disputes Act, 1947 while completely overlooking the withdrawal filed by the said 20 workmen. Further, he pointed out that the Labour Court failed to exercise on its jurisdiction by ignoring the material placed before it, and directed the writ petitioner to extend annual increments to 89 workmen, despite there being no list of such employees furnished by either party. Even according to the respondent/Union's pleadings, only 54 employees were stated to be permanent workmen. No evidence or record was produced to establish that 89 employees were eligible for such benefit. Without ascertaining the availability of list of 89 workmen, and identity of the concerned workmen, the Labour Court erroneously imposed liability upon the petitioner/Management. Therefore, the impugned award is unsustainable and the same is liable to be set aside.



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4. The learned counsel appearing for the respondent would submit that the respondent is the union towards the employees, who are employed in the petitioner's company. The workmen, who were earlier drawing higher wage, had their wages abruptly reduced from 01.01.2016 onwards, without any prior notice to them. The petitioner/Management reduced the salary of 40 workmen as per the list filed before the Labour Court and granted annual increments only for 5 employees, while denying the same benefit to the remaining 89 employees. Therefore, the 89 employees raised the above said Industrial dispute before the Labour Court. The Labour Court, after hearing both sides, rightly held that the unilateral reduction of wages without prior notice is illegal, and that the 89 employees, being similarly placed, are entitled to the same annual increment granted to the aforesaid 5 employees. Accordingly, the Labour Court passed a well reasoned order in favour of the respondent herein. It is also admitted fact that the petitioner/Management had not issued any notice as required under Section 9-A of the Industrial Disputes Act, 1947, and hence, cannot deny the annual increments granted to other 5 similarly placed employees. As regards the withdrawal memo is concerned, the Labour Court, after considering all the evidence on record, has correctly held that partial withdrawal is not permissible, and therefore, passed the impugned



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order. Therefore, the present writ petition is liable to be dismissed.

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5. This Court heard both sides and perused the material available on records.

6. The main contention of the writ petitioner/Management is that the respondent/Union raised an Industrial dispute before the Labour Court alleging that the wages of 40 employees working under the petitioner/Management were reduced from 01.01.2016, without any prior notice, and that only 5 employees had been granted annual increments. The respondent/Union claimed that the remaining 89 employees, being similarly placed, were also entitled for the same annual increment. According to the petitioner/Management, during the pendency of the aforesaid proceedings, 20 workmen, who were part of the said industrial dispute, filed a memo to withdraw their claims, but the same was not considered by the Labour Court.

7. Another contention raised by the writ petitioner is that the petitioner/Management had already granted annual increments to 5 employees, namely, Mr. Nagamani, Mr. Selvasundaram, Mr. Subramani, Mr. Marimuthu



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and Mr. Chinnasamy and that the Labour Court erred in directing payment of increments to the remaining 89 employees on par with the said 5 individuals.

8. In this context, the main ground raised by the writ petitioner is that the number of employees, as stated by the respondent/Union, is factually incorrect. Even according to the respondent, only 54 employees are permanent. Therefore, it is for the respondent/Union to prove the existence of 89 employees as claimed. However, no documentary evidence or proof was produced before the Labour Court to substantiate the said figure. In spite of that, the Labour Court proceeded to direct the petitioner/Management to pay annual increments to 89 employees on par with the other 5 employees.

9. In this regard, it is admitted fact that no list of employees was furnished by either party. If that be so, the Labour Court could not have awarded annual increments to 89 employees. As rightly contended by the learned counsel for the writ petitioner, in the absence of any authenticated list of employees, the Labour Court ought not to have passed an award granting annual increments. Moreover, the Labour Court failed to consider the withdrawal petition filed by 20 employees prior to the passing of the impugned



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award. It is also pertinent to note that the respondent/Union also not denied the filing of the said withdrawal petition by 20 employees of the petitioner's company.

10. With reference to the above submission the records would show that on 23.04.2021, 20 employees filed a memo expressing their intention to withdraw their individual claims. The respondent/Union, however, opposed the withdrawal by making endorsement in the said withdrawal that the dispute was raised by the Union through its President, and therefore, the individual workmen had no independent right to withdraw their claims, and the industrial dispute having been raised by the Union in a representative capacity, it cannot be partly withdrawn and the entire case cannot be dismissed without any merits.

11. On perusal of the records, it is seen from the records that the Labour Court made an endorsement on the withdrawal memo and recorded the same on 23.04.2021. However, the Labour Court did not pass any specific orders on the said withdrawal memo filed by 20 employees. Further, without any authenticated list of employees on record, the Labour Court directed the writ petitioner to extend the benefit of annual increment to 89 employees. Such



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an approach clearly indicates non-application of mind on the part of the Labour Court. Hence, this Court is of the view that the impugned award of the Labour Court is liable to be set aside and the matter to be remanded for fresh disposal, after considering the withdrawal memo filed by 20 employees, and after verifying the list of employees, if any, available.

12. In view of the above discussions, the Writ Petition is allowed by setting aside the award passed by the Labour Court in I.D. No.37 of 2017 dated 24.01.2023. The matter is remanded back to the Labour Court for passing fresh consideration, after duly taking into account the withdrawal memo filed by 20 employees and verifying the list of employees, if any, available. The Labour Court is directed to complete the said exercise within four months from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is also closed.

07.11.2025

Speaking/Non-Speaking Order : Yes/ No
Neutral Case Citation : Yes/ No
Index : Yes/ No

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P. DHANABAL, J

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Pre-Delivery Order in

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