



W.P.Nos.36925 of 2016 and 6190 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2025

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.Nos.36925 of 2016 and 6190 of 2017

and

W.M.P.Nos.31719 of 2016, 23151 and 23149 of 2021

The Management of Titan Company Ltd.
(Formerly Known as Titan Industries Ltd)
Plot No.3, SIPCOT Industrial Complex,
Hosur – 635 126.
Krishnagiri District.

... Petitioner in W.P.No.36925 of 2016

M.Mare Gowdu

... Petitioner in W.P.No.6190 of 2017

Vs.

1. The Presiding Officer,
Labour Court, Salem.

....1st Respondent is both W.P.s

2. M.Mare Gowdu

...2nd Respondent in W.P.No.36925 of 2016

3. The Management of Titan
Industries Ltd.

No.3, SIPCOT Industrial Complex,
Hosur – 635 126.

Krishnagiri District.

... 3rd Respondent in W.P.No.6190 of 2017

Prayer in W.P.No.36925 of 2016 : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, to call for the records connected with I.D.No.50 of 2008 and quash the Award dated 04.02.2016 passed by the 1st respondent i.e., The Presiding Officer, Labour Court, Salem.



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Prayer in W.P.No.6190 of 2017: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records, pertaining to the award dated 04.02.2016 in I.D.No.50 of 2008 and communicated to the petitioner by the Labour Officer, Krishnagiri, by his letter dated 25.07.2016, in Na.Ka.No.A/445/2016 quash the same, in so far as denying and depriving him 80% of backwages and other attendant benefits and direct the 2nd respondent to pay the petitioner the balance 80% backwages and other attendant benefits, in addition to the relief of reinstatement given to him with continuity of service and 20% of backwages and other attendant benefits, award costs.

W.P.No.36925 of 2016

For Petitioner : Mr.Sanjay Mohan for
M/s.S.Ramasubramaniam &
Associates

For Respondents : Court – R1
Mr.R.Ganesh Kumar for R2

W.P.No.6190 of 2017

For Petitioner : Mr.R.Ganesh Kumar

For Respondents : Court – R1
Mr.Sanjay Mohan for
M/s.S.Ramasubramaniam &
Associates for R2

COMMON ORDER

Challenging the order of reinstatement and payment of 20% of back wages, the Management of Titan Company Ltd, (hereinafter referred to as the



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'management') has filed WP No.36925 of 2016. Seeking enhancement of back wages from 20% to 100%, petitioner/workman has filed WP No.6190 of 2017.

2. For the sake of convenience, the petitioner in W.P.No.36925 of 2016 is hereinafter referred to as Management and the petitioner in W.P.No.6190 of 2017 is hereinafter referred to as Workman.

3. Brief facts are as follows:

The workman joined the services of the management as an operator on 01.11.1990. Later, he was promoted as Senior Technician. It is the case of the workman that he gave a hand loan of Rs.2000/- to his friend and colleague Sivanesan on 25.05.2007. The said Sivanesan promised to return the said amount within a week. However, even after a couple of months, he was evading repayment. On 12.07.2007, the workman confronted Sivanesan and requested him to repay the amount. A heated exchange ensued and it is the case of the workman that he was assaulted by Sivanesan. However, the management, by order dated 12.07.2007, placed the workman under suspension. The workman was issued a charge memo dated 18.07.2007. The workman submitted his explanation on 19.07.2007 and denied the charges levelled against him. The management ordered for an enquiry into the charges and after getting a report from the enquiry officer, found the charges proved and dismissed the workman



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from service by order dated 06.10.2007.

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4. According to the management, it is the workman who had assaulted Sivanesan. The victim Sivanesan and security guard of the management have given letters to the management about the assault. Based on the said letters only, action was initiated against the workman and after following the due process of law, the workman was dismissed from service.

5. The workman raised an industrial dispute and as the conciliation ended in failure, the workman filed a petition before the Labour Court which was take on file as I.D. No.50 of 2008.

6. On the side of the workman, the workman examined himself as a witness and marked one document. On the side of the management, two witnesses were examined and 19 documents were marked. The Labour Court on an analysis of evidence let in on either sides, both oral and documentary, held that the dismissal of the workman was unjust. The Labour Court ordered the management to reinstate the workman and pay him 20% of the back wages and other attendant benefits.

7. The learned counsel for the management submitted that the



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workman was indulged in grave misconduct and the same was witnessed by other workers. The workman has used abusive language and manhandled the co-workers. If such a person is taken back, it would set a bad example and the institution would suffer. There would always be uneasiness among the workers and the presence of the workman is bound to create confusion and fear among the workers. The learned counsel therefore submitted that the Labour Court ought not to have ordered for reinstatement much less payment of 20% backwages and other attendant benefits. The learned counsel also prayed that the order of Labour Court to be set aside.

8. The learned counsel for the workman submitted that having ordered reinstatement, the Labour Court should not have restricted the payment of backwages to just 20%, the Labour Court has observed that two persons were involved in the unfortunate incident. However, the management has chosen to proceed only against the workman leaving out the other persons namely Sivanesan. The Labour Court has rightly held that the proceedings against the workman are vitiated and the management has conducted farce enquiry without following the principles of natural justice.

9. The learned counsel submitted that having held the enquiry to be unjust, the Labour Court was not justified in awarding only 20% of backwages.



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Therefore, requested that the same to be enhanced to 100%.

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10. Heard the learned counsel on either side and perused the materials placed on record.

11. On a perusal of the award, it could be seen that the dispute was between two individuals in the management. The fact that both of them indulged in shouting against each other is also not disputed. The workman has not indulged in any misconduct against the management. The management also accepted that there was a running dispute between the workman and Sivanesan. Though action was taken against the workman, Sivanesan was allowed to go Scot-free. Likewise, Sivanesan has deposed that he was attacked; however, he has not sustained any injuries because of the same.

12. The learned counsel for the management tried to create a scenario as though reinstatement of the workman would create an uneasy atmosphere in the factory premises. This Court is taking note of the fact that though two persons were involved in the incident, the management has chosen to leave out the said Sivanesan and proceed only against the workman. Even this partiality shown by the management in choosing one person and leaving out another for taking disciplinary action is sure to have caused heart burns



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among the workers. The management was absolutely not justified in leaving out Sivanesan when they have chosen to proceed against the workman.

13. Likewise, the arguments of the learned counsel for the workman does not cut ice with this Court. It is the case of the workman that he had lent money to the said Sivanesan. The workman ought to have asked about repayment outside the factory premises. The workman had indulged in a wordy quarrel which has resulted in manhandling by both sides. Though the workman has not indulged in any misconduct against the management, the fact that he has misbehaved with the co-worker ; used abusive language and assault warrants disciplinary action. Such a person cannot be reinstated into service. However, at the same time, he cannot be sent home empty handed. As held earlier, the workman had not indulged in any misconduct against the management. This is only a feud between the two individuals. Therefore, the award of the Labour Court is set aside, however, the workman is given a lumpsum of Rs.10,00,000/- (Rupees Ten Lakhs Only) in full quit. The said amount of Rs.10,00,000/- shall be paid by the management within a period of four (4) weeks from the date of receipt of a copy of this order. In addition to the said sum of Rs.10,00,000/-, the workman will also be entitled for gratuity on the basis of his last drawn wages. The same shall also be paid within a period of four (4) weeks.



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M.DHANDAPANI, J.

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14. Both the writ petitions are disposed of accordingly. No costs.

Consequently connected miscellaneous petitions are closed.

24.03.2025

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation Case : Yes/No

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To

The Presiding Officer, Labour Court, Salem.

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