



WEB COPY

WP No. 17657 of 2019



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-04-2025

CORAM

THE HONOURABLE MR JUSTICE M.DHANDAPANI

**WP No. 17657 of 2019
AND WMP NO. 17102 OF 2019**

The Managing Director
M/S.Godrej Cosumer Products Limited
R.S.NO 131,131/1-4 Kattukuppam
Manapet Post, Puducherry- 607 402.

Petitioner(s)

Vs

J.Paulin Evariste
No 5, 1st Cross Lourdu Nagar
Kanuvapet Post, Villianur,
Pondicherry- 605110.

Respondent(s)

This Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, Calling for records of the Impugned Award dated 30-4-2019 of the Presiding officer, Industrial Tribunal Cum Labour Court Puducherry in ID.(L) No 1/2016 and to quash the same as ultra vires, arbitrary, non-est in the eyes of law

For Petitioner(s): MR. S. RAVINDREN, SR.
COUNSEL FOR
M/S.L.SWAMINATHAN

For Respondent(s): R-1 No Appearance

**ORDER**

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The writ petition has been filed seeking to quash the Impugned Award dated 30-4-2019 of the Presiding officer, Industrial Tribunal Cum Labour Court Puducherry in ID.(L) No 1/2016.

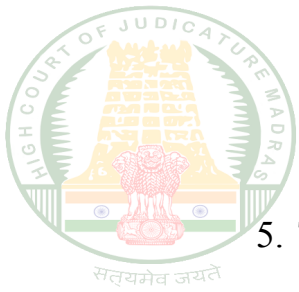
2. It is the case of the petitioner that the Petitioner Management had issued an order of appointment dated 21.12.1997 to the Respondent herein and one of the clauses of the said order of appointment stated that the Respondent is liable to be transferred to any department or branch or sister concern of the company anywhere in India at the discretion of the Petitioner Management which was accepted by the Respondent herein. As a part of the job rotation, the Petitioner Management had issued an Order of Transfer dated 31-7-2009 to the Respondent herein to report for duty in the factory located at North East/Guwahati on 1-9-2009 and the Respondent herein had accepted the Order of Transfer and reported for duty at the Ambipure Unit of M/s. Godrej Household Products Limited, Kalphahar, Guwahati, Assam on 5-9-2009. and was serving for nearly 22 months till 25-5-2011. As the Respondent herein had remained unauthorizedly absent from 25-5-2011 onwards, the General Manager – Operations has directed to “report for duty. As the Respondent did not report for duty, the Respondent was suspended by the Petitioner Management.

3. When the matter stood thus, the Respondent herein after a span of nearly two years had submitted a letter



had submitted a letter dated 24-12-2014 to the Labour Officer (Conciliation) Government of Puducherry wherein he had requested for employment at Puducherry by admitting the fact that there was no official communication pending as on 1-9-2009 (date of transfer) and that the two conciliation proceedings under File No. 866/2006/LOC/L dated 1-9-2009 was closed on 1-9-2009. Contrary to the above said Letter dated 24-12-2014, the Labour Officer (Conciliation), Government of Puducherry had referred the dispute for adjudication to decide regarding the violation of Section 33 A of the Industrial Disputes Act among other references. While so, the Respondent had filed his Claim Statement in I.D. (L) No. 1 / 2016 praying to set aside the enquiry report and direct the Petitioner Management to provide employment in Puducherry non-coil unit. The Presiding Officer of the Industrial Tribunal cum Labour Court, Puducherry had allowed the industrial dispute by wrongly understanding the facts. Challenging the said order, the petitioner Management has filed the present petition.

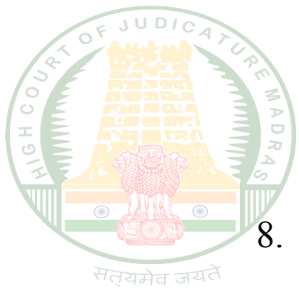
4. The learned counsel for the petitioner submitted that the Labour Court has not considered the fact that there was no pendency conciliation proceedings as on 01.09.2009 to invoke Section 33 A of the Industrial Disputes Act more particularly when the respondent had admitted about closure and withdrawal of the two conciliation proceedings. This apart the respondent had not chosen to file the letter dated 24.12.2014 before the Labour Court and he has suppressed the said document.



5. The learned counsel further submitted that the subsistence allowance and wages has been paid to the respondent herein upto November 2012 and there exists no arrears and directing the petitioner management to pay 50% of backwages for the suspension period with continuity of service clearly establishes that the Presiding Officer of the Labour Court, had not applied his mind to the entire facts of the industrial dispute and hence, the impugned award dated 30.04.2019 is erroneous and liable to be set aside. The learned counsel prays that this Court may set aside the award and remand the matter back to the Labour Court for fresh consideration.

6. Heard the learned counsel for the petitioners and perused the materials available on record. Though notice has been served on the respondent, none appeared on behalf of the respondent, name of the respondent has been printed in the causelist.

7. On perusal of the impugned order, it is seen that the respondent was suspended from service for four days that was accepted by the Labour Court and stated that refusing employment is not justified, however, the Labour Court without any justification, arrayed to a wrong conclusion that the respondent herein has to be provided employment at non coil unit at Puducherry construing that there is a violation of Section 33 A of the Industrial Disputes Act more particularly, when there is no pendency of conciliation proceedings as on 01.09.2009.



8. In view of the afore said reasons, the award passed by the Labour Court is set aside and remands the matter back to the Labour Court for fresh disposal.

9. With the above direction and observation, the writ petition is allowed.
No costs. Consequently, connected miscellaneous petition is closed.

09-04-2025

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

The Presiding officer, Industrial Tribunal Cum Labour Court Puducherry



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M.DHANDAPANI J.

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