



*W.M.P.No.17681 of 2024
in W.P.No.4876 of 2024*

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2025

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

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in W.P.No.4876 of 2024

The Management,
Motherson Automotive Technologies and Engineering,
(A Division of Samvardhana Motherson International
Limited),
Chengalpattu - Sriperumbudur Road,
Pondur Village & Post,
Sriperumbudur Taluk,
Kancheepuram District - 602 105,
Rep. by its Factory Manager,
T.Prakash .. Petitioner

Versus

The President,
Uzhaippor Urimai Iyakkam,
Registration No.3077/CNI, No.268,
Bajnai Kovil Street, Pillaipakkam,
Sriperumbudur block,
Kanchipuram District - 602 105. .. Respondent

Prayer : Writ Miscellaneous Petition filed under Article 226 of the

<https://www.mhc.tn.gov.in/judis>



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Constitution of India, pleased to permit the petitioner management to deposit the amount ordered by this Court by order, dated 29.04.2024 in W.M.P.No.12880 of 2024 in W.P.No.4876 of 2024 before the Industrial Tribunal, Chennai in O.P.No.12 of 2021.

For Petitioner : Mr.S.Ravi,
Senior Counsel,
Asst. by Mr.M.Kandasamy

For Respondent : Mr.S.Kumaraswamy

ORDER

This Writ Miscellaneous Petition is filed for modification of the earlier order passed by this Court on 29.04.2024 in W.M.P.No.12880 of 2024 in W.P.No.4876 of 2024. The prayer of modification which is sought is that instead of making payment to the workmen directly, the amount which was directed to be paid by the said order be permitted to be deposited before the Industrial Tribunal, Chennai to the credit of O.P.No.12 of 2021.

2. The factual background, in which this Miscellaneous Petition



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arises, is that the workmen represented by the Trade Union raised certain demands and since the same were not met, raised a dispute. The conciliation failed. Thereafter, the Government referred the issues to be answered by the Labour Court vide G.O.(D). No.156, dated 19.04.2021. Of the several questions which were referred for adjudication by the Labour Court, certain issues were found to be in favour of the workmen partly or fully and were answered by the Labour Court. In essence, the Labour Court answered the reference on the following terms:-

"In result, an award is passed as follows. The demands of the petitioner union are found to be partially justified and the workers are entitled to revised wages as follows.

1. The basic wages is increased by Rs.10,000/- with effect from 01.01.2019;
2. The house rent allowance is increased by Rs.3,000/- with effect from 01.01.2019; and
3. The fixed dearness allowance is granted at the rate of Rs.5,000/- per month with effect from 01.01.2019;
4. The other demands are found to be not justified and no other relief is granted.
5. The arrears due to the workmen covered under this dispute shall be disbursed within a period of two months from the date of publication of the award;
6. Considering the nature of the litigation, no costs are imposed."



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3. An order of interim stay of the award of the Industrial Tribunal was originally granted. Thereafter, an application for vacating the interim order was moved. After considering the case of both sides, this Court passed a detailed order on 29.04.2024 while further adjourning the Writ Petition on 06.06.2024. By the said order, this Court considered the *prima facie* case of both sides. This Court found that as far as certain awards which are made by the Industrial Tribunal concerning extending the Dearness Allowance beyond the period of three months and fixing the H.R.A over and above the existing H.R.A as beyond the scope of reference there is a *prima facie* case for staying those portions of the award.

4. Thereafter, this Court considered the increase in basic salary.

Prima facie, it found that the case of the workmen had some substance and



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therefore, passed the following order in the applications for stay as well as the vacate stay:-

" 20. Considering the above discussions, this Court is inclined to pass the following orders:

The interim order passed by this Court on 28.02.2024 in WMP.No.5335 of 2024 along with WP.No.4876 of 2024 is hereunder are suitably modified and to read as under:-

(i). The management is directed to pay an amount of Rs.8,000/- to the workman towards increase in the basic wages instead of Rs.10,000/-. The management is directed to pay the arrears only with effect from 01.01.2024 and arrears of basic pay for the period from 01.01.2019 to 31.12.2023, shall be decided subject to final disposal of the writ petition

(ii) enhanced HRA of Rs.3,000/- with effect from 01.01.2019 and Fixed Dearness Allowance of Rs.5,000/- with effect from 01.01.2019 by the Labour Court in the impugned order need not be implemented until final disposal of the writ petition.

With the above modification, the stay granted by this Court on 28.02.2024 in W.M.P.NO.5335 of 2024 continues until the disposal of the main writ petition.

21. Post for final hearing on 06.06.2024."

5. It can be seen that the order has become final. Both the parties have not taken up the matter further. Unfortunately, the Writ Petition could not be taken up in the said date as fixed in the said order and the Writ



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Petition is still pending. Under the said circumstances, complaining that the order is not complied with, a Contempt Application in Cont.P.No.3969 of 2024 is filed. Under the circumstances, the management has come up with the present petition.

6. Heard *Mr.S.Ravi*, learned Senior Counsel for the management and *Mr.S.Kumaraswamy*, learned Counsel for the workmen.

7. The learned Senior Counsel for the management would submit that there was no intention of the management to disobey the order. What is now sought by the management is only a minor modification of the order. The reasons why the modification is sought are mentioned in the affidavit filed in support of the application. Firstly, if the enhanced amount, amounting to Rs.8,000/- per month is paid to every workman, the same would lead to undue financial burden on the petitioner management given the fact that the

Writ Petition is still pending and could not be disposed of. Secondly, the



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amounts, once paid to the workmen, it will be hard to recover the said sum and therefore, even if the management succeeds in the Writ Petition, the amount will become irrecoverable. Thirdly, once the said amount is paid as wages, then, the management will have to pay the statutory contributions, Provident Fund, E.S.I etc., and the entire affair will be irreversible and would become a *fait accompli* and therefore, the order virtually amounts to dismissing the Writ Petition in part even without deciding the issue. Therefore, the order requires modification.

8. The learned Counsel for the workmen would submit that the modification which is now sought virtually amounts to an appeal in disguise. When the order has become final, the management has to comply with the order. The very purpose of the order is to put at least part of the money into the pockets of the workmen in time. It is not the case of the workmen that the money will not be recoverable from the hands of the management so that the amount can be deposited. As a matter of fact, in this case, even though



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the award is with a direction to pay the amount from the year 2019 i.e., from the date of the charter of demand, this Court, while balancing the interest of the parties, did not even direct the management to pay the arrears or to deposit the arrears, it is only from January 2024, it was directed that the sum of Rs.8,000/- (partial amount) was directed to be paid to the workmen.

9. Even in cases where the Industrial Tribunal passed interim awards, the same has been sustained by the Courts in similar matters. The learned Counsel would rely upon one such interim award being sustained by the Hon'ble Supreme Court of India by the order in S.L.P.No.1310 of 2017, dated 20.01.2017.

10. I have considered the rival submission made on either side and perused the material records of the case.

11. As far as the first grievance in the modification petition concerning



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increased financial burden on account of the pendency of the Writ Petition is concerned, the only thing this Court can do is to immediately take up the Writ Petition for final hearing. The said grievance can be redressed by posting the Writ Petition for a final hearing at an early date. Therefore, I post the Writ Petition for final hearing on 31.01.2025 and if the Writ Petition is taken up on an early hearing date and disposed of, the said grievance is redressed to a great extent.

12. The second grievance which is expressed in the modification petition is that the amount cannot be recoverable. These are permanent workmen who are working under the petitioner's management and it is made clear that the workmen cannot claim any equity that they will not repay the amount in the event of this Court accepting the case of the management in the main Writ Petition, the amount which is paid under the interim order, will always be recoverable.



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13. The third grievance that is expressed is relating to the contributions, Provident Fund, E.S.I etc. Regarding the same also, while it is true that the contributions are payable, it is made clear that the said authorities will ultimately take into account the final order that will be passed in the Writ Petition and if any order, is passed in favour of the management, always the total contributions payable have to be reworked and adjusted. With the above directions and observations, the hardship which is expressed by the management is redressed.

14. On the other hand, if this Court accepts the request of the management to deposit the amount rather than paying the amount to the workmen, that would virtually amount to an appeal in disguise and would amount to changing the very order passed by this Court balancing the interest of both the sides and passing a different order. When the applications for grant of stay and vacate stay have been considered and this

Court decided that stay can be granted partially and benefit should go to the



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workmen partially, by a modification to deposit the amount to the credit of the Industrial Dispute, the same will be virtually undone and therefore, that kind of a modification is not acceded to especially when both the parties have not chosen to file an appeal as against the order and the order has become final.

15. In view thereof, with the above observations, this Writ Miscellaneous Petition is disposed of.

10.01.2025

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D.BHARATHA CHAKRAVARTHY, J.

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