



WP No.15390 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2025

CORAM:

THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P. No.15390 of 2014

and

M.P.No.1 & 2 of 2014

The Management.

M/s.Hwashin Automotive India Pvt.Ltd.,

F-65-A, SIPCOT Industrial Park,

Irungattukottai, Sriperumbudur 602 109

Represented by

M.Kalvikkarasu, Plant Manager.

.... Petitioner

Versus

1. The Assistant Commissioner of Labour
(Conciliation-I)
Sriperumbudur

2. D.Natarajan

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Cetiorari to call for the records and quash the order dated 05.04.2014 made in approval petition No.66 of 2012 by the 1st respondent, Assistant Commissioner of Labour (Conciliation-I), Sriperumbudur.



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For Petitioner : Mr.C.Manohar Gupta

For Respondents : Mr.K.Surendran
Additional Government Pleader for R1
Mr.V.Ajoy khose for R2

ORDER

This writ petition has been filed seeking to call for the records and quash the order dated 05.04.2014 made in approval petition No.66 of 2012 by the 1st respondent, Assistant Commissioner of Labour (Conciliation-I), Sriperumbudur.

The facts leading to filing of this writ petition is stated as follows :

2.The Petitioner company, dismissed the 2nd Respondent, a Line Captain, for committing serious misconduct during incidents on 05.01.2009 and 06.01.2009. The 2nd Respondent, along with co-workers, disrupted operations, threatened management, and participated in an unauthorized strike. Following a domestic enquiry, the 2nd Respondent was found guilty and was placed under suspension due to further misconduct in February 2009. The enquiry concluded with a



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recommendation for dismissal, which was communicated to the 2nd Respondent. Despite his objections, the Petitioner dismissed him on 03.02.2012. The Petitioner sought approval of the dismissal under Section 33(2)(b) of the Industrial Disputes Act, 1947, which was taken on file as A.P. No. 66 of 2012. However, the 1st Respondent rejected the approval petition on 05.04.2014. Aggrieved by this, the Petitioner is constrained to approach this Court.

3.The learned counsel appearing for the petitioner/Management would submit that the petitioner company manufactures automobile parts. The 2nd respondent was working as a line captain and was dismissed from service on 03.12.2012 for having committed grave and serious misconduct. The allegation as against the 2nd respondent as on 16.02.2009 and 17.02.2009 is that the 2nd respondent without carrying out the assigned work, threatened the supervisor and committed misconduct and thereby he was served with a charge memo and after conduct of enquiry he was dismissed from service. The enquiry officer highlighted the conduct of the 2nd respondent which resulted in his dismissal on 03.12.2012 and immediately the petitioner filed approval application under Section 33(2)(b) of the Industrial Dispute Act, 1947



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but the same was rejected following ratio laid down in ***Lalla Ram Vs.***

Management of D.C.M Chemicals Works Ltd., and others reported in

AIR 1978 SC 1004 on the above said reason, the writ petition is filed.

4.Learned counsel for the petitioner would submit that while the Labour Court entertained the application under Section 33(2)(b) of the Industrial Dispute Act, 1947, it is necessary to consider whether the procedure laid down under Section 33(2)(b) of the Industrial Dispute Act, 1947, has been followed, as per the decision in Hon'ble Apex Court in the case of ***Lalla Ram Vs. Management of D.C.M Chemicals Works Ltd., and others*** reported in ***AIR 1978 SC 1004*** but without following the said ratio, the petition was dismissed.

5.In the present case, the petitioner/Management had followed the provision under Section 33(2)(b) of the Industrial Dispute Act, 1947. However, the Labour Court, without considering the same, entertained the dispute as if the dispute was raised under Section 2A of Industrial Dispute Act and went into the merits. On the sole ground, the present writ petition is filed.



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6. Learned counsel for the 2nd respondent/workmen fairly submitted that one month salary i.e., Rs.17,445/- was paid. However, the Labour Court, arrived at a conclusion that one month salary was not paid and rejected the approval proceedings. However, in respect of other issues the Labour Court correctly arrived at a conclusion by applying the law laid by the Hon'ble Apex Court and hence, such order of the Labour Court need not be interfered with.

7. Heard the learned counsel on either side and perused the materials available on record.

8. The 2nd respondent workmen was dismissed from service on the basis of misconduct alleged by the petitioner establishment and he was dismissed on 03.12.2012, but the approval under Section 33(2)(b) of the Industrial Dispute Act, 1947, was dismissed. The only issue that requires determination is whether the ratio laid down by the Hon'ble Apex Court ***Lalla Ram's*** case (supra) has been followed.

9. Before advertng to the factual matrix, the decision in Lalla Ram case, which has bearing is quoted hereunder:-



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1) whether a proper domestic enquiry in accordance with the relevant rules/Standing Orders and principles of natural justice has been held;

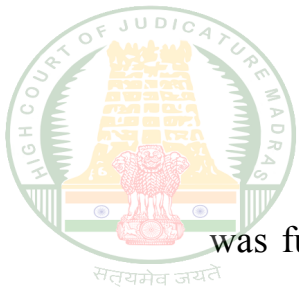
(ii) whether a prima facie case for dismissal based on legal evidence adduced before the domestic tribunal is made out

(iii) whether the employer had come to a bona fide conclusion that the employee was guilty and the dismissal did not amount to unfair labour practice and was not intended to victimise the employee:

(iv) whether the employer has paid or offered to pay Wages for one month to the employee; and

(v) whether the employer has simultaneously or within such reasonably short time as to form part of the same transaction applied to the authority before which the main industrial dispute is pending for approval of the action taken by him."

10. The allegation in the present case is that the 2nd respondent had demanded the removal of the HR Manager and Senior General Manager and had forcibly got the buses carrying the workmen returned back and it



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was further alleged that the 2nd respondent had forcibly took away the key.

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11.It is not disputed by the workman that he was not paid the one month's wages as contemplated u/s 33 (2)(b). It is the stand of the workman that the other limbs of the ratio have not been followed by the petitioner. However, a finding has been recorded by the Tribunal that one month's wages has not been paid. There is no quarrel with the conduct of the enquiry or the filing of the approval petition. But a finding has been recorded with regard to the wages not having been paid in full. It is a question which requires to be gone into.

12.However, it should not be lost in sight that the incident had taken place in the year 2009 and the 2nd respondent was dismissed in the year 2009 and almost 17 years have passed by now. The workman had also been gainfully employed during that period. In such a situation, remanding the matter to the trial court would, be of no avail, but would only result in multiplicity of proceedings. In such a backdrop, this Court is of the considered view that ends of justice would be met, if a lumpsum



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compensation is paid to the workman.

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13.In the above view of the matter, this writ petition stands disposed of directing the petitioner to pay a sum of Rs.6,00,000/- towards full quit in satisfaction of all his claims as one time lumpsum compensation, which would be the only course in the interest of justice to either party. The petitioner is directed to pay the aforesaid compensation to the 2nd respondent within a period of four weeks from the date of receipt of a copy of this order, which would be without reference to the 17(b) wages already paid by the petitioner to the workman, as he was gainfully employed only since the year 2020. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

24.02.2025

Index: Yes/No
Internet: Yes/No
Speaking Order/Non-Speaking Order
vsn

To

8/9



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The Assistant Commissioner of Labour
(Conciliation-I)
Sriperumbudur



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M.DHANDAPANI, J.

vsn

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