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WP No. 25288 of 2014 et
& batch



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-02-2025

CORAM

THE HONOURABLE MR JUSTICE M.DHANDAPANI

WP No. 25288 to 25291 of 2014
M.P.Nos.1 (2 Nos.) & 2 (2 Nos.) of 2014

WP No. 25288 of 2014

1. The Management,
M/s.Jayalakshmi Auto Products, E-3,
SIDCO, 5th Part, SIPCOT, Hosur 635
109.

Petitioner(s)

Vs

1. The Presiding Officer,
Labour Court, Salem District, Salem.

2.B.Dayanand,

Respondent(s)

WP No. 25289 of 2014

1. The Management,
M/s.Jayalakshmi Auto Products, E-3,
SIDCO, 5th Part, SIPCOT, Hosur 635
109.

Petitioner(s)



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WP No. 25288 of 2014 et
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Vs

1. The Presiding Officer,
Labour Court, Salem District, Salem.

2.E.Syedkalander,

Respondent(s)

WP No. 25290 of 2014

1. The Management,
M/s.Jayalakshmi Auto Products, E-3,
SIDCO, 5th Part, SIPCOT, Hosur 635
109.

Petitioner(s)

Vs

1. The Presiding Officer,
Labour Court, Salem District, Salem.

2.A.Murugan,

Respondent(s)

WP No. 25291 of 2014

1. The Management,
M/s.Jayalakshmi Auto Products, E-3,
SIDCO, 5th Part, SIPCOT, Hosur 635
109.

Petitioner(s)

Vs

1. The Presiding Officer,
Labour Court, Salem District, Salem.

2.C.Mani,

Respondent(s)



Common Prayer: These petitions are filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari calling for the records relates to the impugned award dated 01.10.2013 passed in I.D.No. 172, 173, 185 & 174 of 2007 on the file of the 1st Respondent in so far as relates to payment of 25% of back wages and quash the same.

In all W.P.s

For Petitioner(s): Mr. R. Saravanan For M/s.Sai
Krishnan

For Respondent(s): M/s.R.Rajaram For R2
R1 Labour Court

COMMON ORDER

Since the issue involved in the present writ petitions are one and the same they are disposed of by way of this common order.

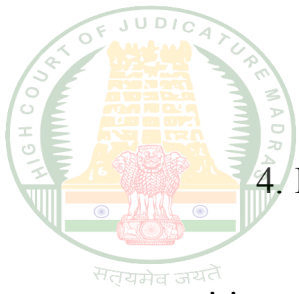
2. It is the case of the petitioner that it is engaged in the manufacture of fabricated components for automotive applications. The respective 2nd respondent was employed with the petitioner during the relevant point of time and the 2nd respondent, by coming out of the Anna Labourers Union formed a new Union and requested the petitioner to consider and recognize the said Union and the petitioner, informed the 2nd respondents that it is not in any way



connected with the Jayalakshmi Group of Companies and it is an independent

entity. In spite of the said communication, the respective 2nd respondent along with other labourers indulged in illegal strike from 1.6.2004 demanding recognition for the new Union. When the demand was under discussion by the Management, the respective 2nd respondent along with other members indulged in criminal trespass and attacked the members of the work force with iron rods in which the partner of the petitioner suffered grievous injuries, resulting in the registration of a case in Crime No.127 of 2004.

3. It is the further case of the petitioner that the criminal case in C.C. No.9/2005 ended in conviction which resulted in the termination of the respective 2nd respondent and aggrieved by the same an industrial dispute was raised in which the 1st respondent, without properly considering the factual aspects, partly allowed the claim of the respective 2nd respondent with a direction to reinstate the respective 2nd respondent with continuity of service and 25% backwages.



4. It is the further averment of the petitioner that to honour the award, the petitioner reinstated the respective 2nd respondent, however, it is the averment of the petitioner that inspite of the fact that the petitioner directed the respective 2nd respondent to join by issuing appointment order even during February, 2014, however, the respective 2nd respondent failed to comply with the order and joined only after more than seven months later and the respective 2nd respondent was terminated only after due enquiry and, therefore, without considering all the aforesaid aspects, the Tribunal has awarded 25% backwages, which is grossly illegal and arbitrary. Therefore, challenging that portion of the order in and by which 25% of backwages has been ordered, though the workmen have joined duty, the present writ petitions have been filed.

5. Learned counsel appearing for the petitioner submitted that the workmen have been reinstated in service and have also joined and the petitioner is not aggrieved with the said portion of the order. However, the award of backwages of 25% to the workmen by the Tribunal is grossly erroneous as it is only on account of the act of the 2nd respondent, more particularly, the criminal



conviction, which has resulted in their order of termination and, therefore, the backwages awarded is not proper. It is the further submission of the learned

counsel that inspite of the fact that the petitioner had issued orders of appointment of the workmen even during February, 2014, however, the workmen joined only during August, 2014 and that period also cannot be put against the petitioner.

6. It is further submitted by the learned counsel that subsequent to the order of appointment, the respective 2nd respondent joined the petitioner and, thereafter, have joined one Adhava Engineering Pvt. Ltd. In the aforesaid scenario, learned counsel for the petitioner prays that the order of the Tribunal be set aside to the extent of awarding of backwages as prayed for in the petitions.

7. Learned counsel appearing for the respective 2nd respondent submitted that the Tribunal, on proper consideration of the material has awarded backwages only to the extent of 25% though the workmen are entitled to full backwages. It is the further submission of the learned counsel that when the



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termination of the workmen was done with conduct of any domestic enquiry,

the workmen cannot be found fault with and when the termination has been held

to be bad by the Tribunal and the Tribunal has ordered only 25% of backwages

to be paid, the same does not require any interference of this Court, as the said

award is just and reasonable and does not suffer the vice of any illegality.

8. This Court gave its careful consideration to the submissions advanced by the learned counsel on either side and perused the materials available on record.

9. The facts in the present case are not in dispute. In respect of the attack alleged to have been perpetrated on the partner of the petitioner firm, criminal machinery was set in motion. Based on the criminal case, without conducting any domestic enquiry, the workmen were terminated from service, by giving them one month salary in lieu of notice. Conduct of domestic enquiry is a basic necessity even if a criminal case is initiated against the workmen. Without conducting any domestic enquiry, terminating the services of the workmen is grossly erroneous, arbitrary and illegal and rightly appreciating the materials, the Tribunal has set aside the termination and awarded reinstatement.



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10. However, the backwages of 25% ordered by the Tribunal is in issue. It is not disputed that due to criminal prosecution, the termination of the workmen had taken place. In spite of the fact that the workmen are confirmed employees, however, it is not disputed that the criminal prosecution was the reason for the termination of the workmen, though, the termination has been held to be wrong for want of conduct of domestic enquiry. However, it cannot be disputed that the workmen have been terminated and were not discharging any work and, therefore, the concept of 'No work, No Pay' will have to be enforced. Further, it is the stand of the petitioner that subsequent to the order of appointment, the respective 2nd respondent joined the petitioner and, thereafter, have left their job to join one other company, which fact is not disputed by the learned counsel for the workmen.

11. Further, the act of the workmen in not joining duty immediately on the appointment orders being issued will also have to be weighed while granting backwages. When the workmen have not joined upon issuance of appointment orders, necessarily, they cannot claim backwages, more so, when they have left their job and joined another company. The Tribunal has erroneously awarded



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25% backwages, which cannot be sustained and, therefore, the said portion of the orders requires to be interfered with.

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12. For the reasons aforesaid, this writ petition is allowed and while the portion of the impugned order directing reinstatement with continuity of service is confirmed, the portion of the order granting 25% backwages is set aside.No costs. Consequently, connected miscellaneous petitions are closed.

27-02-2025

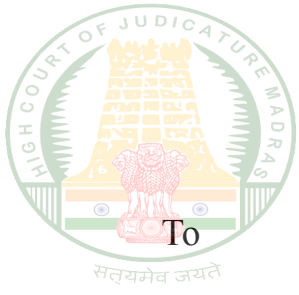
RAP

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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The Presiding Officer,
Labour Court, Salem District, Salem.



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M.DHANDAPANI J.

RAP

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