



W.P.Nos.19919 to 19922 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.Nos.19919 to 19922 of 2014

and

MP.Nos.1 of 2014 (4 Nos.) and 1 of 2015(4 Nos.)

The Management,
Khizaria Leathers,
91-B MBT Road, Ranipet – 1.

...Petitioner in all W.P's.

Vs.

1. The Presiding Officer,
Labour Court
Vellore – 632 009.

...1st Respondent in all W.P's.

2. C.Munusamy

...2nd Respondent in W.P.No.19919 of 2013

3. V.Gopal

...2nd Respondent in W.P.No.19920 of 2013

4. K.M.Sampath

...2nd Respondent in W.P.No.19921 of 2013

5. K.M.Raja

...2nd Respondent in W.P.No.19922 of 2013

Common Prayer: Petitions filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari calling for the records of the orders all dated 22.03.2013 passed by the 1st respondent in C.P.Nos.117, 178, 179 & 180 of 2004 respectively on the file of the 1st respondent and quash the same.



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In all W.P's.:

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For Petitioner : Mr.Dinesh Ravi
for M/s. Ahmad Associates

For Respondents : R1 – Court
Mr.A.Ramesh, for R2

COMMON ORDER

Since the issue involved in all these Writ petitions are similar in nature, they are disposed of by way of this common order.

2. These Writ petitions have been filed by the Management seeking quashment of the orders of the 1st respondent all dated 22.03.2013 made in C.P.Nos.177 to 180 of 2004 respectively.

3. The issue in these Writ petitions is between the management and its four workers. Considering the fact that the dispute is also same, the Writ petition in W.P.No.19919 of 2014 is taken as the lead case. In the affidavit filed in support of the Writ Petition No.19919 of 2014, the petitioner management has stated that the petitioner was running a tannery by name “Khizaria Leathers Tannery”. After the demise of the father of the Managing partner of the petitioner establishment. the tannery was closed. According to the petitioner, the Tanney was closed



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by following the due process of law, namely by invoking Section 25(O)

with effect from 24.08.1998. The competent authority has given his stamp of approval on 12.01.2000 giving effect of closure from 24.08.1998. Even when the Tannery was functioning, the workers had raised industrial dispute in I.D.No.77 of 1989 with regard to the increase of wages. The Tribunal had passed an award in favour of the workers on 27.05.1994, challenging which, the petitioner Management filed a Writ petition in W.P.No.11759 of 1995. In the meantime, the 2nd respondent had filed a claim petition before the 1st respondent in C.P.No.516 of 1994, in which the 1st respondent had passed orders for payment of Rs.80,225/-. When the said proceedings were going on, the 2nd respondent approached the petitioner management for compromise and the settlement under Section 12(3) of the Industrial Disputes Act was reached in the year 2000 and as per the said settlement, a sum of Rs.1,35,000/- was to be paid by the petitioner to the 2nd respondent as a full and final settlement. Accordingly, the said sum was sent to the 2nd respondent by way of cheque and the 2nd respondent had also encashed the same. While so, after a lapse of four years, the 2nd respondent filed a computation petition in C.P.No.177 of 2004 before the 1st respondent claiming back wages. Though the petitioner raised maintainability as a

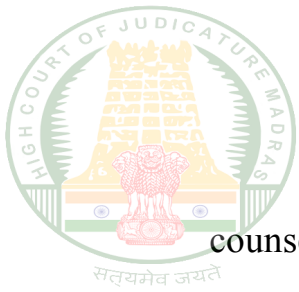


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preliminary issue before the Labour Court and contended that the said computation petition was not maintainable as the parties have already settled the issue by way of 12(3) settlement and that the relationship of employer-employee ceased to exist after the closure of the tannery which was also approved by the Government, however, the Labour Court shot down the said objection, challenging which, the petitioner filed W.P.No.45124 of 2006 and the same was disposed of by this Court on 23.11.2006 by giving liberty to the petitioner to raise all its objection before the Labour Court. The Labour Court ultimately allowed the claim petition in part, vide impugned order dated 22.03.2013 and directed the petitioner to pay a sum of Rs.2,11,532/- as against the original prayer for Rs.3,73,248/-. Challenging the same the W.P.No.19919 of 2013 has been filed. The other three Writ petitions also carry similar basic facts.

4. Learned counsel for petitioner management contended that the labour court has misdirected itself by observing that even after 12(3) settlement between the parties, the computation petition is maintainable. Learned counsel further drew the attention of this Court to the order passed by the Government approving the closure, which was done after following mandatory provisions of Section 25(O) of ID Act. Learned



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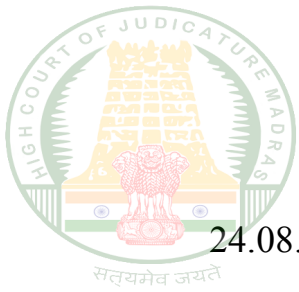
counsel, therefore, prayed this Court to set aside the impugned orders and to allow these Writ petitions.

5. Per contra, the learned counsel appearing on behalf of the respective 2nd respondent/workmen contended that, the workmen were actually misled by the management during the 12(3) settlement. According to the learned counsel, the workmen were made to believe that the entire dues were paid by the management during the settlement. Learned Counsel further contended that the signatures of the workers were obtained in blank papers and the contents were later filled up by the management to suit their needs. Learned counsel, therefore, submitted that the impugned orders be sustained and the Writ petitions be rejected.

6. Heard learned counsels on either side and perused the materials available on record.

7. A short point to be decided in these Writ Petitions is whether the plea of the workers to seek for backwages after enriching themselves during 12(3) settlement is sustainable?

8. It is to be noted that the tannery was closed with effect from



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24.08.1998 and the Government has given its approval on 12.01.2000.

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The workers had raised industry dispute with regard to the rise in wages even in the year 1989 and the same was taken on file as I.D.No.77 of 1989, the Labour Court has passed an award in favour of the workmen in the year 1994, that is four years prior to the closure of the tannery. Subsequently, 12(3) settlement was reached in their 2000 and thereafter, in the year 2004, the workmen have file these computation petitions. The petitioner raised an objection that after having submitted themselves to 12(3) settlement, the workers are estopped from filing a separate petition seeking back wages. Without an iota of doubt, the settlement reached under section 12(3) of the ID Act is a valid one and it is binding on both the parties, namely the employer and the employee.

9. The petitioner has demonstrated before the Labour Court that the closure of the tannery was approved by the Government and that the petitioner has followed the due process enumerated under Section 25(O) of the Industrial Disputes Act.



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10. The only grievance now is the back wages. Having entered into a negotiation with the management and having reached an agreement, the workers cannot now turn around and complain that they were cheated during the 12(3) settlement. It has to be borne in mind that the parties were litigating right from the year 1989 and the workers were fully aware of the consequences of signing any document more specifically 12(3) settlement.

11. Further, it is pertinent to note that, a petition u/s. 33C(2) of the ID Act can only be filed based on pre-existing rights or flow from a pre-existing benefits and this section is designed purely for the computation and recovery of monetary or non-monetary benefits that have already been established or agreed upon, not for creating new entitlements. In the present case, these computation petitions filed by the respective 2nd respondents were not filed for recovering or computing the already established benefits, but only seeking payment of back wages without any entitlements, which cannot be acceded to, for the very reason that the parties, after mutual understanding had entered into 12(3) Settlement and the workers have already received the amount agreed as per 12(3) settlement. Therefore, this Court holds that the orders passed by the



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labour court in the respective computation petitions are perverse and the same deserves interference.

12. In the result, these Writ Petitions are allowed and the impugned orders all dated 22.03.2013 made in C.P.Nos.177 to 180 of 2004 respectively are quashed. No costs. Consequently, the connected Miscellaneous petitions, if any are closed.

04.03.2025

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NCC : Yes / No
Index : Yes / No
Speaking order : Yes / No

To:

The Presiding Officer,
Labour Court,
Vellore – 632 009.



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M.DHANDAPANI, J.

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