

WEB COPY



W.P. No. 18258 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Special Original Jurisdiction)

RESERVED ON	02242025
PRONOUNCED ON	12/03/2025

PRESENT:

THE HONOURABLE DR. JUSTICE A.D. MARIA CLETE

W.P. No.18258 of 2020
and
W.M.P. No. 22641 of 2020

The Management of
Frontier Knitters
18-A, Goundampalayam Road,
Rayarpalayam,
Palladam 641 664
Tiruppur District.
Rep. by its Managing Director

... Petitioner

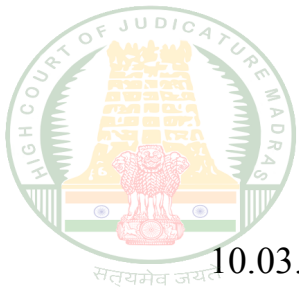
Vs.

P.Rajarajan,
S/o. Palanisamy,
No.3/127, Salavanaicken patty,
V. Velur Post, Udumapet Taluk,
Tiruppur District.

...Respondent

Prayer in W.P.No.18258 of 2020:

To issue a Writ of Certiorari calling for the records of Additional Labour Court, Coimbatore in I.D.No.29 of 2014 and quash its award dated



W.P. No. 18258 of 2020

10.03.2020 and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Prayer in W.M.P.NO.22641 of 2020

To grant Interim Stay of the award of the Additional Labour Court, Coimbatore dated 10th March 2020 in I.D.No. 29 of 2014, pending disposal of the Writ Petition and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Appearance of Parties:

For Petitioner: Mr. Haroon AL Rasheed, Advocate
for T.S.Gopalan & Co., Advocates

For Respondent: Mr. Ma.P. Thangavel, Advocate

J U D G M E N T

Heard.

2. The petitioner, representing the management, has filed the present writ petition challenging the Award dated 10.03.2020, passed by the Additional Labour Court, Coimbatore, in I.D. No. 29 of 2014. By the impugned award, the Labour Court held that the oral termination of the respondent workman on 07.07.2011 was unsustainable. Consequently, it



W.P. No. 18258 of 2020

directed the reinstatement of the respondent with continuity of service from 2006, to be implemented within one month from the date the award takes effect. Regarding back wages, the Labour Court awarded 25% of the back wages to the respondent.

3. The writ petition was admitted on 11.12.2020. Pending its disposal, an interim stay on the operation of the award was granted on the same day in WMP No. 22641 of 2020. Upon receiving notice from this Court, the respondent entered an appearance through counsel. When the matter was listed on 27.06.2024, this Court recorded the following:

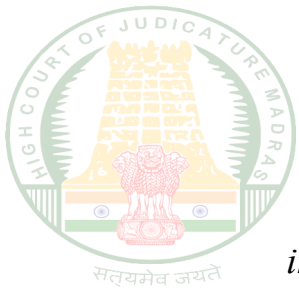
“2. The learned counsel for the petitioner after getting instructions from his client reported to this Court that the petitioner management is willing to re instate the respondent in Vijayamangalam and Kangeyam units.

3. However, it is submitted by the learned counsel for the respondent that the respondent is willing to be re instated only in the Frontier Knitters, Palladam, Tiruppur District.

4. The learned counsel for the petitioner submitted that the Frontier Knitters, Palladam, Tiruppur District, has already been closed as per 12 (3) Settlement dated 19.04.2012.

5. However, the learned counsel for the respondent has contradicted the same and has filed certain photocopy of pictures stating that the said unit is not closed and still working.

6. The learned counsel for the petitioner is directed to get



W.P. No. 18258 of 2020

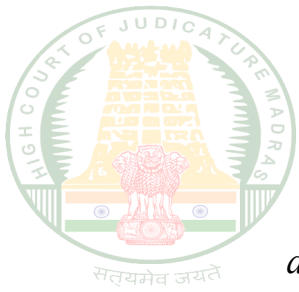
WEB COPY

instructions from his client as to whether the Frontier Knitters, Palladam, Tiruppur District is working or not.”

4. After hearing the arguments in this matter, the counsel for the petitioner circulated an affidavit sworn by P. Chacko Mathew, Manager of the Company, dated 25.02.2025, after duly serving a copy on the respondent's counsel. In paragraphs 1 and 2 of the affidavit, the following averments were made:

“I state that as early as 19.04.2012, the Petitioner company namely the ‘D’ unit at Palladam was closed owing to business reasons and settled all its workmen who were in the rolls of the Company. The same was also brought to the notice of the Labour Court in the dispute. The Hon’ble Labour Court has also taken note of the same and the same fact was also admitted by the Respondent. Despite the same the Labour Court has granted the relief of reinstatement.

2.I state that when the Writ Petition was filed before this Hon’ble Court given the order of reinstatement passed by the Labour Court, the Petitioner agreed to reinstate the Respondent in one of its units at Vijayamangalam near Erode. However, for the reasons best known the Respondent did not accept the said offer and was only insisting on working in the Palladam unit which has since been outsourced much after the activities were discontinued. Further this Affidavit is also filed to place on record that the Respondent has been working with one M/s. Palani Andavar Cotton mills at Udumalpet. The



W.P. No. 18258 of 2020

WEB COPY

above aspects were also placed before this Hon'ble Court during the course of submission which took place on 24.02.2025. Hence the relief of reinstatement granted to the Respondent in view of settlement dated 19.04.2012 coupled with the fact that the Respondent is also employed in the mill aforesaid cannot survive any longer and the award should be set aside or modified in view of the settlement as well as subsequent employment of the respondent."

5. The respondent's case was that he had been employed with the petitioner company since 01.01.2006. However, despite this, the management began deducting ESI and PF contributions only from January 2010. On 05.07.2011, when the respondent reported for work, he was denied entry into the factory. He was asked to return on 07.07.2011, and on that day, he was informed that his services had been terminated. The security guards at the gate forcibly removed him from the premises. Consequently, he raised an industrial dispute before the Government Labour Officer in Coimbatore through a petition dated 25.11.2011. However, during that period, the districts of Coimbatore and Tiruppur were bifurcated, and a new Labour Officer was appointed in Tiruppur. As a result, his case was transferred to the Tiruppur Labour Officer.

6. Due to delays in the conciliation proceedings, the respondent



W.P. No. 18258 of 2020

approached the Payment of Wages Authority, Coimbatore, seeking unpaid wages. His claim, registered as PW58/2012, was ultimately rejected by the authority on 16.05.2014. Meanwhile, the petitioner management filed a counter statement before the Labour Officer on 29.10.2012. As the Labour Officer was unable to facilitate a settlement, a failure report was issued on 04.06.2013. Based on this failure report, the workman filed a claim statement before the Labour Court on 03.06.2014.

7. The dispute was taken on file as I.D. No. 29/2014 by the Labour Court, which ordered notice to the petitioner management. In response, the petitioner management filed a counter statement dated 18.12.2014, wherein it contended that there was no termination of the respondent workman and that it was the respondent who had stopped reporting to work after 04.07.2011. The petitioner further stated that the respondent had initially joined the company on 01.11.2006 but had resigned through a letter dated 21.10.2008, following which his dues were settled. Subsequently, in November 2009, the respondent again approached the management for casual work and was engaged as a casual labourer. His services were later confirmed in February 2010, at which point ESI and PF benefits were extended to him. Therefore, the petitioner



W.P. No. 18258 of 2020

asserted that the respondent's claim of continuous employment since 2006 was factually incorrect.

8. Before the Labour Court, the respondent examined himself and two other witnesses, who were marked as WW1 to WW3, and submitted 25 documents, which were marked as Ex.W1 to Ex.W25. On behalf of the petitioner management, the Manager, Chacko Mathew, was examined as MW1, and six documents were submitted, marked as Ex.M1 to Ex.M6. The Labour Court framed five points for determination. On the first point, it held that the dispute regarding the alleged illegal oral termination of the respondent's employment on 07.07.2011 was not valid.

9. The Labour Court found that the attendance register (Ex.M2) was incomplete, as the entire register had not been produced. It held that merely submitting two months' attendance records was insufficient to substantiate the allegation of unauthorized absenteeism. In the absence of a complete record, the court concluded that the workman had established that he was orally terminated on 07.07.2011. The burden, therefore, was on the petitioner to disprove this claim. Furthermore, MW1, the management's witness, admitted that no disciplinary action had been



W.P. No. 18258 of 2020

initiated against the workman. The court observed that if the workman had indeed been absent without authorization, disciplinary proceedings would have been taken. The petitioner failed to produce any evidence showing that a letter had been sent to the workman instructing him to resume duty.

10. Even during the proceedings before the Labour Officer, the management did not extend any offer for reinstatement. In fact, MW1, in his proof affidavit, stated that the management was facing a crisis and was unable to provide employment. Given this critical situation, a settlement dated 19.04.2012 under Section 12(3) was entered into, marked as Ex.W10. This created a presumption in favor of the workman, as at that time, all other workmen had resigned and settled their accounts. Consequently, the Labour Court concluded that the allegation of absenteeism on the part of the workman was not substantiated.

11. Regarding the second point on the maintainability of the dispute under Section 2A(2) of the Industrial Disputes Act, the Labour Court held that since the non-employment of the workman was brought about by the management, the dispute was maintainable.



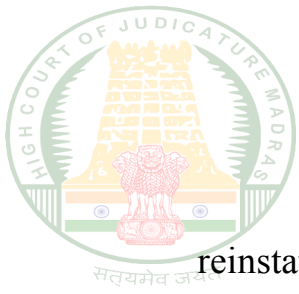
W.P. No. 18258 of 2020

WEB COPY

12. On the third point, the court found that there was no valid resignation by the workman on 21.10.2008, nor had he settled his accounts on 22.10.2008, as claimed by the management. Consequently, it held that the workman had been in continuous employment since 2006.

13. As for the fourth and fifth points, which pertained to the reliefs the workman was entitled to, the court observed that the petitioner had not followed the prescribed procedure under the certified standing orders (Ex.W9). Given this, the court treated the case as one of termination without due process, particularly for failing to comply with Section 25F of the Industrial Disputes Act. On this basis, the Labour Court concluded that the oral termination was illegal.

14. However, regarding back wages, the Labour Court found that the workman had not sufficiently established that he was not gainfully employed during the period of non-employment. Consequently, it declined to grant full back wages and instead restricted the relief to



W.P. No. 18258 of 2020

reinstatement with continuity of service from 2006, along with back wages at the rate of 25%.

15. The present contention that the company's Unit D at Palladam was closed due to business reasons on 19.04.2012 and that no relief should have been granted by the Labour Court is noted. However, since the management had agreed to reinstate the workman at one of its units in Vijayamangalam, Erode, and considering that he was found to be gainfully employed—an argument presented during the proceedings—this aspect should also be taken into account.

16. The management's final submission that the workman was gainfully employed elsewhere cannot be accepted, as this claim was neither pleaded nor proved before this Court or the Labour Court. Furthermore, the contention that employment was offered in another unit also does not stand to reason as the unit was located in a different district, and no such offer was made at the time of termination. The question of whether the unit was factually closed on 19.04.2012 was never raised as an issue before the Labour Court, and the management cannot introduce this argument at this stage.



W.P. No. 18258 of 2020

WEB COPY

17. The Labour Court had clearly established that the oral termination of the workman was proved, while rejecting the management's claim that the workman had failed to report for duty from 05.07.2011. As this is a finding of fact based on evidence, it cannot be interfered with in this writ petition.

18. Under these circumstances, this Court finds no reason to interfere with the impugned award of the Labour Court. Accordingly, the writ petition in W.P. No. 18258 of 2020 stands dismissed. However, there shall be no order as to costs. Consequently, W.M.P. No. 22641 of 2020 is also closed.

12.03.2025

ay

Index: Yes / No

Speaking Order / Non-speaking Order

Neutral Citation : Yes / No

To

The Presiding Officer,
Additional Labour Court,



W.P. No. 18258 of 2020

Coimbatore.
(with records if any)

WEB COPY



WEB COPY



W.P. No. 18258 of 2020

DR. A.D. MARIA CLETE, J

ay

Pre-Delivery Judgment made in
W.P. No.18258 of 2020
and
W.M.P. No. 22641 of 2020

12.03.2025