



W.P.No.20833 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **29.07.2025**

CORAM

THE HONOURABLE MR.JUSTICE **P.DHANABAL**

W.P.No.20833 of 2022
and W.M.P.No.19897 of 2022

The Management of MRF Limited,
Thiruthani Road,
Ichiputhur,
Arakonam.

Represented by its Mr.John Daniel

.... Petitioner

Vs

K.Giridharan

.... Respondent

PRAYER: Writ Petitions are filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records connected with A.P.No.73 of 2016 on the file of the Presiding Officer, Industrial Tribunal, Chennai and to quash the order dated 10.12.2021.

For Petitioner : Mr.Sanjay Mohan
Senior Counsel

For Respondent : Mr.V.Prakash
Senior Counsel for
Mr.K.Sudalaikannu



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W.P.No.20833 of 2022

ORDER

This writ petition has been filed as against the order passed by the Industrial Tribunal, Chennai in A.P.No.73 of 2016 dated 10.12.2021, wherein the petitioner management filed an approval petition before the Tribunal in respect of the dismissal order passed against the respondent/workman and the same was dismissed. Aggrieved by the said order, the present writ petition has been filed.

2. The leaned counsel for the writ petitioner would submit that the petitioner company is engaged in the business of manufacturing of tyres, tubes and conveyor belts. The respondent joined in the year 1995, working in the tyre plant's production department. During the course of his employment, he was irregular at work, facing disciplinary actions between 1999 and 2008. Despite leniency, his unauthorized absences continued.

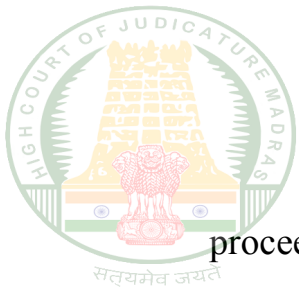
2.1. A charge memo was issued to the respondent on 25.07.2008 for unauthorized absence from January 2008 to June 2008. The



W.P.No.20833 of 2022

respondent submitted an explanation on 08.08.2008, admitting his misconduct. However, being not satisfied with the explanation offered by the respondent, the petitioner management decided to conduct a domestic enquiry. The enquiry officer conducted proceedings, providing opportunities to both the parties. The respondent participated and admitted guilt. Thereafter, the enquiry officer rendered his findings that charges were proved

2.2. The learned counsel for the petitioner further submitted that a 2nd show cause notice was issued by enclosing the enquiry report. The respondent submitted an explanation, after which the management passed order by terminating the services of the respondent from 31.12.2008. Since a common dispute in I.D.No.14 of 2008 was also pending before the Industrial Tribunal, the Management filed an approval petition under section 33(2)(b) of the ID Act in A.P.No.3 of 2009. The Industrial Tribunal without considering the admission made by the respondent in the disciplinary proceedings, dismissed the approval petition on the ground that one month wage was not paid and the approval petition was not filed simultaneously. Though the Tribunal observed that enquiry



W.P.No.20833 of 2022

proceedings was conducted in a fair and proper manner and the petitioner has made out prima facie case and the respondent was guilty of misconduct as per the standing order declined to grant approval. The order of dismissal of approval petition would read that non payment of wages of one month salary of Rs.25637/- is against the law. According to the petitioner management, aforesaid reason for rejection of approval petition is not sustainable and therefore, the aforesaid dismissal order is liable to be quashed.

2.3. The present writ petition is being filed in July 2022 even though the rejection of approval order dated 10.12.2021 is because the petitioner management was under the impression that it had already filed a writ petition challenging the rejection order. It was subsequently noticed that only a draft affidavit was prepared by the counsel and the same was available on the file, indicating the writ petition had not actually been filed. The earlier order passed by the Tribunal in A.P.No.3 of 2009 is not relevant to the present writ petition, since a fresh dismissal order was issued to the respondent with prospective effect from 31.08.2016. As such, along with the new dismissal order, the



W.P.No.20833 of 2022

management concurrently paid one month wages in lieu of notice and thereafter, application for approval was filed. Therefore, the order passed by the Labour Court in rejecting the approval, is liable to be quashed.

3. The learned counsel for the respondent would submit that the respondent was working under the petitioner management and he was dismissed from service on 31.12.2008 through disciplinary proceedings. Due to the pendency of industrial dispute in I.D.No.14 of 2018, the management filed an approval petition in A.P.No.3 of 2009, which was dismissed on 24.06.2016. Thereafter, the petitioner reported to duty on 1.09.2016 and also gave a letter dated 31.08.2016 informing that he was reporting for duty. However, the management has not received the letter of the respondent and the same was sent through post. Thereafter again the management sent a 2nd dismissal order dated 31.12.2016 and filed 2nd approval petition in A.P.No.73 of 2016, and even after that he sent a letter dated 06.09.2016 requesting the management to withdraw the 2nd dismissal order and requested to permit him to join duty and pay all the wages and other terminal benefits. However the management failed to



W.P.No.20833 of 2022

grant any permission and has not paid any terminal benefits.

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3.1. Per contra, the management filed an approval petition for the second time and the same was dismissed on 10.12.2021. The Labour Court after elaborate discussions, declined to grant approval in respect of dismissal of the respondent. The findings are that no wages was paid even from 1st dismissal to 2nd dismissal and one month wage was also not paid and the approval petition was not filed simultaneously. Therefore, the order passed by the Tribunal is in order and the present writ petition is liable to be dismissed.

4. This Court heard both sides and perused the records.

5. In this case, the petitioner management initiated disciplinary proceedings against the respondent and thereafter conducted domestic enquiry. Thereafter, the management passed order of punishment by removing the respondent from service.



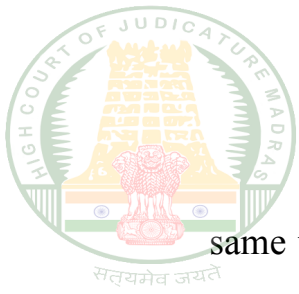
W.P.No.20833 of 2022

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6. Since an Industrial dispute was already pending in I.D.No.14 of 2008, the management has filed an approval petition in A.P.No.03 of 2009 and the same was dismissed by the Tribunal on the ground that one month salary was not paid and the approval was not filed simultaneously. The said order was not challenged by the Management.

7. The facts of the case would go to show that the management, without challenging the earlier rejection order, once again passed fresh order of dismissal as against the respondent vide order dated 31.08.2016. Thereafter the present approval petition was filed by the management before the Industrial Tribunal, for grant of approval of the punishment of dismissal awarded by the petitioner management as against the respondent.

8. The second dismissal order was awarded by the management only after making payment of one month wage to the respondent. Before the Labour Court, the respondent was set exparte. However after hearing the petitioner's/management side, the Labour court dismissed the petition for approval on the ground that earlier approval petition was filed and the



W.P.No.20833 of 2022

same was dismissed in A.P.No.3 of 2009 for non payment of one month salary and the approval petition was not filed simultaneously, without challenging the said order, once again passed fresh order and filed the present petition.

9. The principle laid down in the judgment of the Honourable Supreme Court in Indian Telephone Industries Limited, is that, having not challenged the earlier rejection order, it was not open to the management to make a second application seeking approval for the order of the dismissal that too without paying full wages.

10. It is an admitted fact of the management that already dismissal order was passed by the management on 31.12.2008 and the said dismissal was based on a domestic enquiry. Therefore, the management filed approval petition in A.P.No.3 of 2009. The Industrial Tribunal dismissed the approval petition for two reasons viz., (1) for want of payment of one month wages (2) approval petition was not filed simultaneously. In spite of the above rejection order passed by the Tribunal, the management, for a 2nd time passed dismissal order once



W.P.No.20833 of 2022

again dismissing the respondent from service vide order dated

31.08.2016.

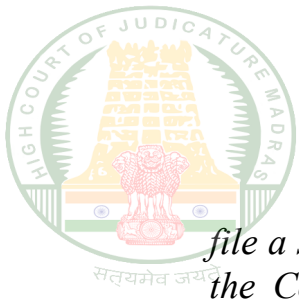
11. At this juncture the question that arises for determination is

(i) whether a 2nd approval petition is maintainable after the dismissal of an earlier approval application without challenging the said rejection order.

12. In this context, it is relevant to refer the judgement of Hon'ble Supreme Court in Indian ***Telephone Industries Limited and another Vs. Prabhakar H. Manjuare and another, reported in 2002 3 LLJ 1134***

Wherein the Hon'ble Supreme Court in para 9 held as follows:

“9. Having not challenged the earlier order dated September 1, 1987, it was not open to the petitioners to make a second application seeking approval for the order of dismissal of the respondent that too without paying full wages. The Division Bench of the High Court has found that the second order of dismissal amounted to unfair labour practice and victimization. The Tribunal was not justified in allowing the second application seeking approval by ignoring the dismissal of the earlier application made by the management for non-compliance of the mandatory provisions of law. The Tribunal proceeded on the ground that the earlier application was not decided on merits and held that it was open to the petitioners to



W.P.No.20833 of 2022

file a second application. This is clearly contrary to decision of the Constitution Bench. It appears to us that the petitioners designed to defeat the claim of the respondents by making a second application when the order suffered by them on the first application had become final. Even as stated in the decision of Tata Iron & Steel Co.(Supra) the petitioners failed to pay full wages to the respondents between the period of two dismissal orders. The case of Tata Iron & Steel Co. (supra), on facts of the present case does not help the petitioners. The question that was dealt in that case was altogether different.”

13. On a careful perusal of the aforesaid judgement, it is clear that once rejection order is passed on the approval petition filed by the management, without challenging the earlier rejection order passed by the Tribunal, it is not open to the management to make a 2nd application seeking approval for the order of the dismissal that too without paying full wages.

14. In the case on hand also, the earlier approval petition was dismissed on the ground of non payment of one month salary and the approval petition was not filed simultaneously. Therefore, without challenging the rejection order, once again the management passed fresh order by dismissing the respondent based on the same enquiry report, and the management filed the 2nd application for approval. In such a case, as



W.P.No.20833 of 2022

per the rulings of the Apex Court, the management cannot be permitted

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15. At this juncture, the learned counsel for the petitioner also relied upon the judgement of Hon'ble Supreme Court in Punjab Beverages Vs. Suresh Chand (1978) 2 SCC 144.

16. The Hon'ble Supreme Court in Indian Telephone Industries and another Vs. Prabhakar H.Manjurae and another on 30/10/2002 which is the Constitution Bench declared that the Punjab Beverages Vs Suresh Chand (1978) 2 SCC 144 is no more a good law. Therefore, the arguments of the learned counsel for the petitioner is not acceptable and the Labour Court has passed elaborate order after referring the judgement of the Hon'ble Supreme Court in Indian Telephone case and this Court, unable take any different view and the order passed by the Industrial Tribunal, is based on the legal principles and therefore, this writ petition has no merits and deserves to be dismissed.



W.P.No.20833 of 2022

17. Accordingly, this writ petition is dismissed. No costs.

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Consequently, connected miscellaneous petition is closed.

29.07.2025

Index : Yes/No
Neutral citation : Yes/No
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To
The Presiding Officer, Industrial Tribunal, Chennai.



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W.P.No.20833 of 2022

P.DHANABAL,J.

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W.P. No.20833 of 2022
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29.07.2025