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W.P.No.22163 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2025

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.22163 of 2019
and
W.M.P.No.21437 of 2019

The Managing Director,
Tamil Nadu Co-operative Milk Producers Federation Limited,
Nandhanam,
Chennai – 600 035. ... Petitioner

Vs.

M.Radhakrishnan ... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records in C.P.No.13 of 2015 dated 04.01.2019 on the file of the II Additional Labour Court, Chennai and quash the same as null and void not binding the petitioner.

For Petitioner : Mr.S.Balasubramanian

For Respondent : Mr.K.M.Ramesh
Senior Counsel
for M/s.V.Subramani

ORDER

This Writ Petition has been filed by the petitioner seeking for a Writ of Certiorari, to call for the records in C.P.No.13 of 2015 dated



W.P.No.22163 of 2019

04.01.2019 on the file of the II Additional Labour Court, Chennai and
quash the same as null and void not binding the petitioner.

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2. The case of the petitioner is that the respondent has filed a Computation Petition on the file of the learned II Additional Labour Court, Chennai u/s 33C(2) of the Industrial Disputes Act, 1947, claiming arrears of salary with interest from the petitioner for the period from 01.08.2012 till 31.12.2012 and 01.01.2013 till 30.04.2013 to a tune of total amount of Rs.1,54,400/-, which has been allowed by the labour court vide order dated 04.01.2019. Challenging the same, the petitioner/management has filed the present writ petition before this Court.

3. Learned counsel for the petitioner submitted that though it is pleaded that the conciliation report dated 28.08.2003 has been marked as a document, the Labour Court has not given any clear finding to the effect as to whether there was conclusion of proceedings once the report was sent to the Commissioner. Equally, learned counsel for the petitioner submitted that though the Labour Court finds that there is violation of Section 33(2)(b) and approval is not obtained before passing the dismissal



W.P.No.22163 of 2019

order, ultimately, the Labour Court has gone into a further decision that in view of the pendency of the Criminal prosecution u/s 33(1) of the I.D. Act and the claim made by the respondent cannot be entertained. Without considering all these facts, the Labour Court has passed an award in favour of the respondent, which is wholly unsustainable. Accordingly, he prays for allowing the writ petition.

4. Learned Senior Counsel appearing for the respondent submitted that the petitioner management has filed a writ petition in W.P.No.10929 of 2013 challenging the quashment of the order for the approval petition and the same was dismissed on the ground that the management has not get prior approval for the termination of the respondent. The Hon'ble Supreme Court, in a categorical decision, has held that *order of dismissal or discharge being incomplete and inchoate until the approval is obtained cannot effectively terminate the relationship of the employer and employee that if the approval is not accorded by the tribunal the employer would be bound to treat the respondent as its employee and pay full wages*. Such decision is squarely applicable to the present case on hand. On following the above said decision, the Labour Court has allowed the computation petition, which cannot be interfere with.



W.P.No.22163 of 2019

WEB COPY 5. Heard the learned counsel for the petitioner and the learned Senior Counsel appearing for the respondent and also perused the materials available on record.

6. Admittedly, the respondent filed a computation petition before the labour court claiming arrears of salary from the petitioner management. It is also an admitted fact that on the earlier occasion, the petitioner management had terminated the service of the respondent without getting any approval. Challenging the same, the respondent has raised an industrial dispute and got an order in his favour, against which, the petitioner filed a writ petition before this Court challenging the order of quashment of the approval petition and the same was dismissed.

7. It is also equally undisputed that the Labour Court passed an order in favour of the respondent in the computation petition stating that there is no valid reason for the termination order passed by the petitioner. The said order passed by the Labour Court was by following the decision of the Hon'ble Supreme Court and the same was pointed out by the labour court.



W.P.No.22163 of 2019

WEB COPY 8. This being the legal principles to be followed, this Court is of the considered opinion that the very adjudication of the disputed issues made by the Labour Court in the computation petition is perfectly in order and the does not require any interference.

9. In view of the facts and circumstances as well as the legal principles, this Court has no hesitation in coming to a conclusion that there is no perversity or infirmity in respect of the order passed by the Labour Court in the computation petition filed u/s 33C(2) of the Industrial Disputes Act.

10. Accordingly, this Writ Petition is dismissed. No costs. Consequently, the connected writ miscellaneous petition is closed.

04.04.2025

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
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To
The II Additional Labour Court, Chennai.



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W.P.No.22163 of 2019

M.DHANDAPANI, J.

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W.P.No.22163 of 2019

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