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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.04.2025

CORAM :

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

W.P.No.25555 of 2019
and
WMP.No.25083 of 2019

The Management,
Salem District Consumer Co-operative Wholesale Stores Limited,
Seetharaman Road, Pallapatti,
Salem – 636 009. ...Petitioner

Vs.

1. P.Meera
2. B.Lakshmi
3. A.Pappathi
4. C.Thilagam
5. M.Loganayagi
6. S.Vathsala
7. K.Palaniammal ...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari to call for the records in C.P.Nos.36 to 42 of 2014 on the file of the Labour Court, Salem, quash the impugned common order dated 13.06.2018.

For Petitioner : Mr.M.R.Raghavan

For Respondents : Mr.K.V.Shanmuganathan

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ORDER

This Writ petition has been filed seeking quashment of the common order dated 13.06.2018 made in C.P.Nos.36 to 42 of 2014 on the file of the Labour Court, Salem.

2. It is the case of the petitioner that, the respondents herein were working in the packing section of the petitioner. While so, alleging that they were illegally stopped from service, they raised industrial disputes before the Labour court and the same were dismissed, vide award dated 24.03.1994. Aggrieved by the same, the respondents filed W.P.No.2337 of 1996 and this Court, vide order dated 18.01.2002 allowed the said writ petition and ordered for reinstatement with 25% backwages and the same was also confirmed by the Hon'ble Division bench of this Court in W.A.No.2377 of 2003 dated 25.02.2008. In the mean time, the respondents preferred Claim petitions under Section 33(C)(2) of the Industrial Disputes Act in C.P.Nos.472 to 478 of 2002 seeking wages from 01.06.1989 till 31.07.2002 and the Labour court, vide order dated 21.12.2010 computed the amount payable to the respective respondents and the same was also paid by the petitioner and the respondents

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were provided employment and were paid Rs.122/- per day. While so, claiming wages for the period from 01.02.2002 to 28.10.2012, the respondents herein filed present claim petitions in C.P.Nos.36 to 42 of 2014 and the Labour court, without considering any of the above said facts, vide common order dated 13.06.2018 allowed the said computation petitions. Challenging the same, the petitioner has come up with this Writ petition.

3. Learned counsel for the petitioner/management submitted that the Labour Court failed to note that the claim petitions under Section 33(C)(2) were not maintainable, since, the respondents/workmen claimed the relief based on 12(3) Settlement, but the respondents/workmen were admittedly not parties to the said settlement and thereby, they cannot claim the benefits of the said settlement. Further, Section 33(C)(2) could be invoked only in cases where predetermined rights existed in favour of the respondents. Learned counsel for the petitioner/management relied upon a Judgment of this Court in W.P.No.3996 of 2015, wherein under similar factual circumstances this Court held as follows:

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"15. The Labour Court in proceedings under Section 33- C(2) of the Industrial Disputes Act, cannot adjudicate the issues on merits, so as to crystallize the rights of the workmen. Such an adjudication must be done in the manner prescribed under the Industrial Disputes Act and therefore, the contention of the learned counsel for the writ petitioner/Corporation that the Labour Court considered the documents as well as the merits and accordingly granted the relief by computing the arrears of salary cannot be accepted. If such an adjudication on merits under Section 33C(2) is permitted, then the very spirit and purpose of the adjudication process contemplated under the other provisions of the Industrial Disputes Act, are not only diluted but also defeated. Thus, every provisions of the Industrial Disputes Act has got its own spirit and sanctity."

4. Further, the Hon'ble Supreme Court in catena of Judgments namely ***Municipal Corpn. of Delhi vs Ganesh Razack and Another*** reported in 1995 (1) SCC 235, ***M/s. Punjab Beverages Pvt. Ltd. vs. Suresh Chand and Another*** reported in 1978 (2) SCC 144, ***State of Uttar Pradesh and Another vs. Brijpal Singh*** reported in 2005 (3) LL] 1003 etc. has categorically held that the proceedings under Section 33(C)(2) of the I.D Act are in the nature

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of execution proceedings and only rights and entitlements which are crystallised by adjudicatory process could be entertained. Therefore, as per the settled proposition of law, in an application under Section 33(C)(2) of the Industrial Disputes Act, the Labour Court has no jurisdiction and cannot adjudicate dispute of entitlement or the basis of the claim of workmen. It can only interpret the award or settlement on which the claim is based. Accordingly, he prayed for appropriate orders.

5. On the above said contentions, heard learned counsel appearing on behalf of the respondents and perused the materials available on record.

6. It is not in dispute that already the Labour Court, vide order dated 24.03.1994 dismissed the industrial disputes raised by the respondents/ workmen. Aggrieved by the same, the respondents/workmen filed W.P.No.2337 of 1996, which came to be disposed of by this Court, directing that the respondents/workmen be reinstated with 25% of back wages, which was also confirmed by the Division Bench of this Court. While that be so, the respondents/workmen preferred claim petitions by invoking Section 33(C)(2) of the Industrial Disputes Act, 1947, seeking wages from 01.06.1989 till

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31.07.2002 and the Labour Court on consideration of the materials placed before it, vide order dated 21.12.2010, computed the amount payable to the respondents/workmen and the petitioner management has complied with the said order and made payments to the respondents and they also received the same. It is pertinent to note that the respondents/workmen have not challenged the order dated 21.12.2010. Later, the petitioner/management also reinstated the respondents/workmen on 02.04.2012. While so, again, the respondents/workmen moved Claim Petitions, seeking computation of their wages from 01.02.2002 to 28.10.2012. They made claim particularly based upon the 12(3) settlement and the Labour Court, vide order dated 13.06.2018, allowed the computation petitions.

7. The main aim of the Section 33(C)(2) is only for creating a mechanism for providing the benefits with regard to the pre-existing rights to an employee, which are computable in terms of money. Therefore, the main ingredient that forms part of Section 333(C)(2) is the pre-existing right of an employee to receive a benefit requires to be established. Therefore, it becomes incumbent on the part of the employee to establish through materials his pre-existing right to a certain benefit, which alone would clothe

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the Labour Court with power to grant the benefit and there is no iota of adjudication which is required to be made by the Labour Court. However, ignoring the elemental question with regard to the power of the Labour Court with regard to adjudication of a claim under Section 33(C)(2), the Labour Court had allowed the computation petitions filed by the respondents, vide impugned common order, which is not sustainable, since the respondents/ workmen are not entitled to claim benefits as per settlement entered into under Section 12(3) in which they are not at all the parties and thereby, the claim petitions filed by the respondents herein are not maintainable, since there was no prior adjudication.

8. In the light of the fact that there is a serious dispute as to the entitlement of the workman to the claim amount, and the prevailing law on the subject, this Court is of the view that the Labour Court erred in entertaining the claim petitions of the respondents/workmen under Section 33(C)(2) of the I.D Act.

9. Accordingly, this Writ Petition stands allowed and the impugned

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common order dated 13.06.2018 passed in C.P.Nos.36 to 42 of 2014 by the Labour Court, Salem, is hereby set aside. No costs. Consequently, the connected Miscellaneous petition is closed.

16.04.2025

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NCC : Yes/No
Index : Yes/No
Speaking Order : Yes/No

To:

The Labour Court,
Salem.

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M.DHANDAPANI, J.

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