



W.P.No.2617, 2618, 2619 & 2620 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2025

CORAM :

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

W.P.Nos.2617 to 2620 of 2024

and

WMP.Nos.2870, 2871, 2873 & 2875 of 2024

The Management
Maharashtra State Co-operative cotton Growers
Marketing Federation Ltd.,
Rep. by its General Manager (Accounts) i/c,
Krishnakumar S.Nair,
No.82, Street No.3, Post Box No.2964
Tatabad, Coimbatore - 641 012. ...Petitioner in all Writ Petitions

Vs.

P.Rangaraj ...Respondent in all Writ Petitions

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for the records in pursuant to the common impugned order in C.P.Nos.363 of 2008, 190 of 2005, 435 of 2005 and 44 of 2020 respectively dated 26.04.2023 passed by the Hon'ble Principal Labour Court, Coimbatore and quash the same.

In all Writ Petitions:



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For Petitioner : Mr.S.Ravindran, Sr.C
for Mr.A.Deivasigamani

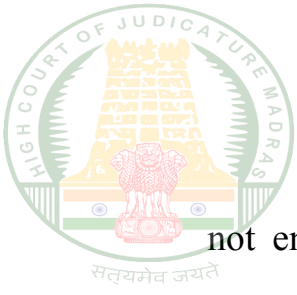
For Respondent : Mr.K.M.Ramesh, Senior Counsel
for Mr.V.Subramani

COMMON ORDER

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

2. These Writ Petitions have been filed seeking quashment of the common impugned award dated 26.04.2023 made in C.P.Nos.363 of 2008, 190 of 2005, 435 of 2005 and 44 of 2020 respectively on the file of the Principal Labour Court, Coimbatore.

3. It is the case of the petitioner that, it is a seasonal establishment which had utilised the services of the respondent-workman during the seasonal period on temporary basis and thereafter upon completion of work, his service was dispensed with and it is the regular practice to engage temporary staffs as and when the procurement of cotton period starts. Since the workman was engaged only on periodical basis, he was



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not entitled to be regularised and he cannot claim salary on par with regular employees. While so, the workman raised an industrial dispute in I.D.No.235 of 1999 before the Labour Court, Coimbatore regarding his termination from service which was allowed, vide order dated 14.06.2001 and based on the said order, the workman had been reinstated in service and had been paid entire backwages by calculating the same on the basis of his last drawn wages. Further, the workman was paid wages as per the Minimum Wages Act till the date of his retirement, in spite of the fact that no work was allotted to him. Thereafter, based on the above said award, the workman filed the aforesaid computation petitions claiming backwages for various periods, which have been partly allowed by the Labour Court, vide common impugned order dated 26.04.2023. Aggrieved by the same, the present Writ petitions have been filed.

4. Learned counsel for the petitioner submitted that as per the award passed by the Labour Court in I.D.No.235 of 1999, the workman was reinstated in service and the entire backages were paid to the workman till the date of his superannuation and though no work was allotted to him, he was paid full wages and he superannuated from



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service. During such period, the respondent-workman had not raised any grievance with respect to the differential backwages. However, after his retirement, the workman had raised the claim of differential backwages by filing the aforesaid computation petitions under Section 33(C)(2) of the Industrial Disputes Act without submitting any proof as to how the workman is entitled to the said backwages and under what pre-existing right he is claiming the said backwages. However, without considering any of the above said facts, more especially the pre-existing right of the workman for the said backwages, the Labour Court had in part allowed the said computation petitions, which is against the provisions of Section 33(C)(2) and therefore, the same deserves to be set aside.

5. On the above said contentions, this Court heard the learned counsel appearing on behalf of the respondent/workman and perused the counter filed on his behalf, in which, the workman had made a claim that he is entitled for permanent status and for backwages in line with the permanent status to be granted to them and towards the same, the workman had placed reliance on the order of reinstatement granted by the Labor Court in I.D.No.235 of 1999. If permanent status is granted to



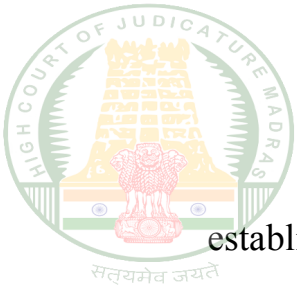
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the workman, the workman would be entitled for the benefit of enhanced backwages as per the computation petitions filed by the workman, which does not require any adjudication as the pre-existing right stands established through the earlier round of litigation in I.D.No.235 of 1999. Therefore, the claim of the petitioner that the Workman had not established his pre-existing rights is wholly misconceived and rightly appreciating the above, the Court below has passed the present impugned order granting the benefits which does not require any interference at the hands of this Court. Accordingly, he prayed for dismissal of these Writ petitions.

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

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 33(C)(2) is the pre-existing right of an employee to receive a benefit requires to be



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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 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 respondent-workman.

8. In the present case, in the earlier round of litigation, the workman had been granted the benefit of reinstatement and backwages in I.D.No.235 of 1999, which have been received by the workman and he had not raised any quarrel. The workman had never sought for grant of permanent status and he had been continued in service and had been paid the full wages. Such being the case, if at all, the workman claims permanent status, it would be only a fresh adjudication and it cannot be a pre-existing right which will confer the benefit of the provisions of Section 33(C)(2) of the Industrial Disputes Act.



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9. The pre-existing right is not a matter of adjudication, but it is

established on the facts of the case and this Court having held that the conferment of permanent status on the workman requires adjudication, the plea of pre-existing right claimed by the workman is wholly misconceived. The Labour Court has totally lost sight of this elementary principle and has granted the benefit to the workman erroneously, which does not deserve to be sustained. Hence, the impugned common order of the Labour court dated 26.04.2023 is set aside.

10. With the above observations and directions, these Writ petitions stand allowed. However, liberty is granted to the respondent-workman to workout his remedy in the manner known to law, if so advised. No costs. Consequently, the connected Miscellaneous petitions are closed.

18.02.2025

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



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M.DHANDAPANI, J.

skt

To

The Principal Labour Court,
Coimbatore.

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