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W.P.No.30933 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2025

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THE HONOURABLE MR.JUSTICE HEMANT CHANDANGOUDAR

W.P.No.30933 of 2022

and

W.M.P.Nos.30325, 30326 & 30327 of 2023

The Management of Kancheepuram
Central Cooperative Bank Ltd.,
15G Sekupettai North Street
Kancheepuram - 631 501.

... Petitioner

vs.

V.Ganeshan
S/o.Varadharaja Mudaliar

... Respondent

Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, to call for the records culminating in CP.No.217/2013 dated 13.02.2019 on the file of II Additional Labour Court, Chennai and quash the same and consequently, direct the II Additional Labour Court, Chennai, to adjudicate the claim petition No.217/2013 on merits within a time frame.

For Petitioner	:	Ms.G.Thilagavathi Senior Counsel for Mr.D.Kanagasundaram
For Respondent	:	Mr.A.S.Narasimhan



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ORDER

The captioned Writ Petition has been filed seeking the issuance of a writ of certiorarified mandamus, assailing the order dated 13.02.2014 passed by the II Additional Labour Court, Chennai in Claim Petition No. 217 of 2013, and consequently, to direct the said Labour Court to adjudicate Claim Petition No. 217 of 2013 on its merits.

2. By the impugned order, the Labour Court allowed the claim petition filed by the respondent herein under Section 33C(2) of the Industrial Disputes Act, 1947 [hereinafter referred to as “the Act, 1947” for brevity], directing the petitioner–Management to pay a sum of Rs.17,29,539/- together with interest at the rate of 12% per annum from April 1975 till the date of recovery.

3. The respondent was employed in the establishment of the petitioner and was dismissed from service on 05.12.1975. The order of dismissal was set aside by the Labour Court by its order dated 16.06.1986, which was



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subsequently confirmed by this Court in W.P. No. 12297 of 1986 vide order dated 20.02.1997.

4. The petitioner contends that subsequent to the said order, a settlement was entered into between the petitioner and the respondent under Section 18 of the Act, 1947, in terms of which the respondent relinquished all claims for arrears of wages under the award and accepted a fresh appointment. It is the case of the petitioner that the respondent was appointed afresh on 10.04.1997, served until 31.07.2010, and retired thereafter upon receiving all retirement and terminal benefits.

5. Subsequently, in 2012, the respondent filed an application under Section 33C(2) of the Act, 1947, claiming arrears of wages under the award for the period between 1975 and 2010. The petitioner, despite being served with notice, remained *ex parte*. An application to set aside the *ex parte* order along with one for condonation of delay was filed by the petitioner, which was allowed subject to the condition that the petitioner pays costs of Rs.5,000/-.



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6. It is the case of the respondent that the said costs were not paid, and owing to the continued non-appearance of the petitioner, the Labour Court proceeded to pass the impugned order based on the available records. Aggrieved by the same, the present Writ Petition has been filed.

7. Ms. G. Thilagavathi, learned Senior Counsel appearing for the petitioner, contended that the non-appearance of the petitioner before the Labour Court resulted in an *ex parte* adjudication that caused grave prejudice to the petitioner. She submitted that the respondent is not entitled to claim arrears of wages in view of the settlement entered into under Section 18 of the Act, 1947, whereby the respondent voluntarily relinquished all monetary claims arising from the earlier award in exchange for a fresh appointment.

8. It was further contended that the respondent, having accepted the benefits of the said settlement, continued in service till retirement and received pensionary and terminal benefits without demur. Hence, the subsequent claim under Section 33C(2) of the Act, 1947, is not maintainable. Accordingly, it was prayed that the impugned order be set aside and the matter be remitted for fresh consideration on merits.



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9. Mr. A.S. Narasimhan, learned counsel for the respondent, submitted that sufficient opportunities were granted to the petitioner to appear before the Labour Court, but the petitioner willfully failed to participate in the proceedings. He contended that the Labour Court, after perusing the award which entitles the respondent to arrears of wages, has rightly computed the dues and passed the impugned order. It was therefore argued that the impugned order is well reasoned and does not warrant interference by this Court.

10. The arguments advanced by the learned counsel for both parties and the materials available on record have been carefully perused and considered.

11. It is undisputed that the order of termination dated 05.12.1975 was set aside by the Labour Court with a direction for reinstatement with full back wages, and the said order was affirmed by this Court. It is also an admitted position that a settlement under Section 18 of the Act, 1947 was entered into thereafter between the parties. The validity, voluntariness, and enforceability of the said settlement now stand disputed, with the respondent contending



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that the same was executed under coercion and that it was not notified by the competent authority as required under Section 2(p) of the Act, 1947.

12. Further, it is not in dispute that the respondent rejoined service in 1997, continued till his retirement in 2010, and received certain terminal benefits. Whether the said settlement is binding and enforceable or whether the respondent's claim under Section 33C(2) survives notwithstanding the settlement, are matters that require adjudication by the Labour Court upon full-fledged hearing and examination of evidence.

13. Though the petitioner has not provided a satisfactory explanation for its non-appearance before the Labour Court, this Court is of the opinion that the ends of justice would be better served if the matter is reconsidered on merits, especially since the issue turns on the effect and validity of the settlement. Denying such an opportunity may result in irreparable financial hardship to the petitioner in the event the settlement is ultimately found valid and binding.

14. It is also noted that the petitioner has complied with the interim directions issued by the Hon'ble Division Bench of this Court on 18.11.2022,



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by depositing the entire amount awarded under the impugned order before this Court.

15. Hence, this Court is inclined to remit the matter to the Labour Court for fresh consideration, subject to the imposition of costs upon the petitioner to compensate the respondent for the delay and inconvenience caused.

16. Accordingly, the petitioner is directed to pay costs of Rs.25,000/- to the respondent within a period of two weeks from today, i.e., on or before 21.11.2025.

17. The impugned order dated 13.02.2014 passed by the II Additional Labour Court, Chennai in C.P. No. 217 of 2013 is set aside, and the matter is remitted to the said Labour Court to decide the claim petition afresh under Section 33C(2) of the Act, 1947, after affording adequate opportunity of hearing to both parties.

18. The Labour Court shall endeavor to dispose of the claim petition within a period of two months from the date of receipt of a copy of this order.



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19. It is made clear that this order is subject to petitioner–Management paying the costs of Rs.25,000/- within the stipulated period.

20. In view of the foregoing discussion, the Writ Petition stands allowed with the above directions. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

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Index : Yes / No

Neutral Citation : Yes / No

Speaking / Non-speaking

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HEMANT CHANDANGOUDAR, J.,

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