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W.P.Nos.33361 & 31185 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2025

CORAM :

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

W.P.Nos.33361 & 31185 of 2019

and

W.M.P.No.33820 of 2019

W.P.No.33361 of 2019:

1.In the Management

Kancheepuram District Consumer
Cooperative Whole Sale Stores Ltd.,
93, Prakasam Salai, Chennai – 600 108.

2.In the Management

Kancheepuram District Consumer
Co-operative Whole Sale Stores Ltd.,
Vyavoor Road, Kancheepuram – 2.

...Petitioners

Vs.

S.Sriram

...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records of the order passed by the II Additional Labour Court, Chennai, in C.P.No.288 of 2011 dated 30.07.2019 and to quash the same as illegal.



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W.P.Nos.33361 & 31185 of 2019

For Petitioners : Mr.R.Gokulnath
for Mr.V.Selvaraj

For Respondent : Mr.D.S.Ramesh

W.P.No.31185 of 2019:

Sridhar (*Died*)

Sriram

...Petitioner

Vs.

1.The Management,
Kancheepuram District Consumer
Cooperative Wholesales Stores Ltd.,
No.164, rep. by its Managing Director,
93, Prakasam Salai, Chennai – 600 108.

2.The Management
Kancheepuram District Consumer
Cooperative Whole Sale Stores Ltd.,
Vyavoor Road, Kancheepuram – 2.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records in C.P.No.288 of 2011 dated 30.07.2019 on the file of the II Additional Labour Court, Chennai, and quash the same and direct the respondents to allow the entire claim amount of Rs.18,20,000/- with 12% interest per annum.



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For Petitioner : Mr.D.S.Ramesh

For Respondents : Mr.L.P.Shanmugasundaram, for R1
: No appearance, for R2

COMMON ORDER

Since the issue involved in both the writ petitions are interconnected, they are disposed of by way of this common order.

2. These writ petitions have been filed challenging the order of the II Additional Labour Court, Chennai made in C.P.No.288 of 2011 dated 30.07.2019.

3. For brevity, the parties are hereinafter referred to as per their array in W.P.No.33361 of 2019.

4. The short facts necessary for disposal of these Writ petitions are as follows:

4.1 It is the case of the respondent, the son of the deceased employee



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that the deceased was employed in the petitioner co-operative stores from 13.01.1981 onwards and was posted in several places as Salesman in the Fair price Shops. When the workman was lastly working as Salesman in Chengalpet Region at Shop No.1 in the year 1995, during an inspection by the Inspection Officer, it was found that there was a deficit in stock pertaining to uncontrollable stocks to the tune of Rs.14,328.25/- and therefore, the deceased employee/workman and one Devaprakasam, who was the Weighing Salesman, were fastened with the liability of 60:40 and the workman was declared liable to the tune of Rs.8,590.95/- and they were directed to hand over the charges to one Mr.Ananda Raman, Salesman, pursuant to which, charges were handed over to him by an order of the Management dated 24.03.1995. However, thereafter, the Management refused to give duty to the workman. Because of this, the workman was mentally affected and his health condition worsened and his wife also died because of the depression that the workman was not in employment, since they were unable to feed their children. Further, the petitioners sanctioned annual increment for other workers for the period from 25.03.1995 till date. It is the claim of the respondent that every year, the deceased employee is



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eligible for increment of Rs.1000/- and whenever the workman attempted to join duty, the Management insisted him to remit the amount of deficit along with interest. Even after the payment of deficit amount of Rs.8,595/- by the workman before the Assistant Commissioner of Labour (Conciliation), Chennai in R.C.No.675 of 2000, the Management has not allotted any work to the workman. After being made to run from pillar to post, the workman raised an Industrial Dispute in I.D.No.318 of 2010.

4.2. The Labour Court, on an analysis of the material documents placed before it, passed an award dated 15.07.2010 directing reinstatement of the workman with full backwages from 25.03.1995 till date. Even pursuant to the said award, the Management refused to give employment to the workman. Therefore, the workman claims that the Management is liable to revise/refix the scale of pay from 25.03.1995 with increments which the Management ought to have granted to the workman from 25.03.1995. Thereby, the workman filed C.P.No.288 of 2011 before the II Additional Labour Court, Chennai.



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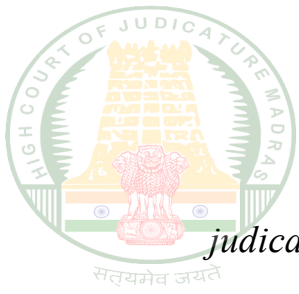
Labour Court. It is the case of the petitioners that when the workman was working at Vellaikulam Ration Shop, he misappropriated, and therefore, he was suspended by order dated 27.05.1989. After enquiry, the workman was levied fine and was thereafter, reinstated on 08.08.1988. When the workman was working at Madhuratham Ration Shop, he committed stock deficiency and on enquiry, he admitted the misconduct and paid the cost for stock deficiency and pleaded for job. The Management again gave him job. While so, once again, when the workman was working in Kanchi Ration Shop, he committed stock deficiency to the cost of Rs.14,329/-. Because of the repeated misconduct committed by the workman, the Management suffered financial loss and therefore, the Management directed the workman to hand over the responsibility to one Mr.Anandharaman and asked him to join duty at head quarters. But the workman handed over the responsibilities to Mr.Anandharaman and went on leave without any leave letter. The Management sent notice on 10.04.1995, but the workman did not turn up for duty. After issuing several notices, thereafter, charge memo was issued.



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Being dissatisfied with the explanation submitted by the workman, enquiry was conducted and the workman admitted the charges. Hence, second Show Cause Notice was issued on 15.12.2000. As per the Rules of the Cooperative Societies, if a workman is absent for more than two months or absent for work without salary for more than three years, he/she will be considered as retired from service. The workman in this case is absent from 26.03.1995. The workman thereafter filed a writ petition for reinstatement. However, the writ petition was dismissed. After failure of conciliation proceedings, the workman sent his resignation letter on 25.03.1998. In spite of several opportunities being given to the workman to join duty, he remained absent for duty. Therefore, the workman is not entitled to any benefits as claimed for. It is the further case of the Management that the workman had earlier raised an Industrial Dispute in I.D.No.284 of 2001 and the same was dismissed for default. Therefore, it is the case of the Management that the present I.D.No.318 of 2010 is hit by *res judicata*.

4.4. The Labour Court, on appreciation of oral and documentary evidence on record, held that the Court cannot look into the question of *res*

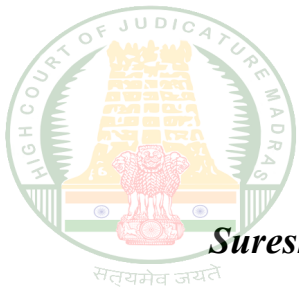


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judicata in a Claim Petition and it is for the Management to bring the same to the notice of the Court in the Industrial Dispute, but not in the Claim Petition and came to the conclusion that the petition is maintainable. Further, the Labour Court, on considering the various documents marked, partly allowed the claim and granted a sum of Rs.7,17,740/- as claim amount payable to the workman. Challenging the grant of claim, the petitioners have filed W.P.No.33361 of 2019. Aggrieved by the quantum of claim amount granted, the respondent/son of the deceased workman has filed W.P.No.31185 of 2019.

5. Learned counsel for the petitioners/management submitted that the right to draw wages would be on appreciation of entire facts of the case and it cannot be safely inferred from the Award passed by the Labour Court in I.D.No.284 of 2002. The learned counsel further submitted that when the workman's claim of wages is disputed, without an adjudication on the dispute over the right to draw wages, there could be no occasion for computation of the benefits. The learned counsel placed reliance on the judgment of the Hon'ble Supreme Court in ***Punjab Beverages (P) Ltd. v.***



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Suresh Chand, wherein, it is held that the right to the money which is sought to be calculated must be an existing one already adjudicated upon or provided for and must arise in the course of and in relation to the relationship between the industrial workman and his employer. Whereas, in the present case, the entitlement of the workman was highly disputed and the period of absence was due to the fault of the workman. Therefore, the learned counsel prayed for setting aside the Award of the Labour Court.

6. Per contra, the learned counsel appearing on behalf of the respondent submitted that the Labour Court has not even granted a minimum interest for the claim amount from the date of filing the Industrial Dispute and the same is against the settled principles. The learned counsel further submitted that the workman has claimed only a sum of Rs.1,000/- as additional payment every year, but the Labour Court has not taken the same into consideration. Further, by placing reliance on the documents marked on the side of the workman, the learned counsel tried to impress upon this Court that the Labour Court ought to have granted the full claim. Thus, the learned counsel prayed for award of full claim made by the workman.



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WEB COPY 7. Heard the learned counsel on either side and perused the materials available on record.

8. The core issue in both the writ petitions is the quantum of claim awarded by the II Additional Labour Court, Chennai in C.P.No.288 of 2011, vide order dated 30.07.2019. The deceased workman/father of the respondent has filed the aforesaid claim petition claiming Rs.18,20,000/- from the petitioners as backwages and during the pendency of the claim petition, he died and therefore, his son was brought on record as legal heir. The undisputed fact remains that the deceased workman was alleged to have involved in stock deficiency along with one Devaprasam and he was fastened with liability to pay the amount of Rs.8,590/- and for claiming reinstatement, he raised a dispute in I.D.No.318 of 2010. It is also not in dispute that the deceased workman earlier filed I.D.No.284 of 2001 for the very same relief, which was dismissed for default. According to the respondent, the petitioners are liable to revise/refix the deceased workman's scale of pay from 25.03.1995 with the increments.



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WEB COPY 9. On the other hand, it is the contention of the petitioners-management that the deceased workman/father of the respondent has unauthorisedly absented himself from duty from 26.03.1995 till domestic enquiry and with regard to the deficiency in stock, the Management has given many chances to repay the amount and join the duty, but the deceased workman has not utilized the chances and therefore, the deceased workman is not entitled to get any benefits as claimed for.

10. The Labour Court, on consideration of oral and documentary evidence, has found that there is no evidence to prove that the deceased workman was educated and moreover the workman and the respondent have not proved about the increments paid to the workman and also about the merger of increment with D.A. The Labour Court further observed that though the deceased workman did not accept the salary mentioned in Ex.R11, no document was filed on behalf of the workman to show the salary of the workman in 1995 before his suspension. Therefore, the Labour Court has partly allowed the claim petition by granting Rs.300/- increment every



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year and accordingly awarded a sum of Rs.7,17,740/-, which includes Rs.50,000/- towards all the benefits which the deceased workman was eligible. This Court is of the opinion that the impugned order of the Labour Court is a well considered one and finds no reason to interfere with the same. The petitioners-management are directed to honour the order dated 30.07.2019 within a period of two weeks from the date of receipt of a copy of this order, if not already complied with.

11. Accordingly, these Writ petitions stand dismissed, confirming the impugned order dated 30.07.2019 made in C.P.No.288 of 2011 on the file of the II Additional Labour Court, Chennai. No costs. Consequently, the connected Miscellaneous petitions, if any, are closed.

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

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M.DHANDAPANI, J.

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