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CMP No.25897 and 26743 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15-12-2025

CORAM

**THE HONOURABLE MR JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR.JUSTICE P. DHANABAL**

CMP Nos. 25897 and 26743 of 2024

IN

REV.APPL Nos. 32 and 33 OF 2023

K.Raman (Died)

... Petitioner and
Original Review Applicant

1. K.Jothi
2. R. Sowmya
3. K. Veerammal

Impleaded Petitioners / Legal Heirs
[common in both C.M.P.s]

Vs

1. The Presiding Officer
Central Government Industrial
Tribunal -Cum-Labour Court, 1st Floor,
B-Wing, 26 Haddows Road, Sastri
Bhavan, Chennai- 600 006.

2. The Director (Personnel),
Neyveli Lignite Corporation Ltd.,
Block-I, Neyveli – 607 801.

Respondent(s)
[common in both C.M.P.s]

COMMON PRAYER: These Civil Miscellaneous Petitions have been filed
under Section 151 of Code of Civil Procedure praying for the clarification of the
order dated 12.08.2024 in Review Application Nos.32 and 33 of 2023.

For Appellant(s): Mr. N.G.R. Prasad, Senior
Counsel for Mr. R.Rajaram

For Respondent: Mr. N. Nithyanandan [for R2]
R1 – Labour Court.



COMMON ORDER
(Order of the Court was made by P.Dhanabal J.)

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These petitions have been filed by the petitioner for clarification of the order dated 12.08.2024 in Review Application Nos.32 and 33 of 2023.

2. The learned Senior Counsel appearing for the petitioners would submit that the petitioners are the legal heirs of one deceased K. Raman, who was the employee of the 2nd respondent Corporation. The husband of the 1st petitioner namely K. Raman, joined as an Industrial Worker Grade-II in the 2nd respondent Neyveli Lignite Corporation Limited on 21.09.1996 and he was given a charge memo for a misconduct of unauthorized absence. Thereafter, a domestic enquiry was conducted and he was removed from service through an order dated 25.07.1998. Against which, he raised an industrial dispute in I.D. No.61 of 2005 on the file of the Central Government Industrial Tribunal-cum-Labour Court and the same was dismissed on 11.06.2007. Challenging the said award, the deceased Mr. K. Raman filed a Writ petition in W.P. No.28299 of 2007 and the matter was remanded back to the Tribunal for fresh enquiry through an order dated 26.03.2011. Thereafter, a review application was filed in R.A. No.74 of 2011 and the same was dismissed by this Court through an order dated 13.10.2011. Aggrieved by the said order passed in review application and Writ petition, Writ Appeals were preferred preferred by the deceased in W.A. No.2187 of 2011 and W.A. No.109 of 2012. The Hon'ble Division Bench of this



Court allowed the Writ appeals through an order dated 05.09.2012 and set aside the termination order and punishment of removal from service was modified into stoppage of two increments with cumulative effect for a period of two years and the backwages were also denied. No any observations made in respect of the continuity of service. Thereafter, the 2nd respondent filed two Special leave petitions before the Hon'ble Supreme Court against the order of the Hon'ble Division Bench dated 05.09.2012 and the same were dismissed through an order dated 19.10.2012. Thereafter, the deceased Mr. K. Raman filed Contempt Applications and he also filed a Clarification Petition in M.P. No.1 of 2012 in W.A. No.2187 of 2011 and 109 of 2012. At that time, the Hon'ble Division Bench of this court, on 10.12.2013, orally stated that since the contempt application has already been filed and pending, there cannot be other proceedings on the same issue. Therefore, the clarification petition was withdrawn and the same was dismissed with liberty to file an appropriate petition. In the meantime, the worker K. Raman died on 10.02.2021 and the said Contempt Petition was dismissed as 'abated' due to the death of the deceased K. Raman. Thereafter, these petitioners have filed review applications in Rev. Application Nos.32 and 33 of 2023.

2.1. The learned Senior Counsel would further submit that the Hon'ble Division Bench of this Court modified the punishment from 'dismissal from service' to 'stoppage of increments for a period of 2 years' and denied



backwages for the entire period. Therefore, once the dismissal order was modified and stoppage of increment is ordered, the continuity of service automatically follows. This Court dismissed the Review Applications through an order dated 12.08.2024 stating that the Clarification Petition filed by the Original Review petitioner and the Contempt petition filed by him were dismissed on merits and therefore, the Review Applications were not maintainable. In fact, the Clarification petition was dismissed as 'withdrawn' and the Contempt petition was dismissed as 'abated', since the petitioner, who filed the said Contempt petition died. Neither the clarification petition nor the contempt petition were dismissed on merits. The review petitions were dismissed on incorrect factual assumption that the clarification petition and the contempt petition were dismissed on merits. Therefore, there is an error apparent on the face of the record of the order of this Court dated 12.08.2024 in the Review Application Nos.32 and 33 of 2023 and therefore, the petitioners have filed these petitions and the same have to be allowed.

3. The learned counsel appearing for the respondents would submit that the Hon'ble Division Bench of this Court has passed an elaborate order and there is no scope to interfere with the said order. The petitioners have already filed a contempt petition and petition for clarification. The said clarification petition was dismissed as 'withdrawn' and subsequently, the contempt petition was also closed. The Hon'ble Division Bench of this Court has not fully



relieved the workman from the charges, whereas confirmed the misconduct done by the workman and only modified the punishment, thereby, correctly denied the backwages and not awarded continuity of service. In the absence of any order for continuity of service, it is deemed to be denied and therefore, already the Hon'ble Division Bench of this Court has passed an elaborate order and there is no error apparent in the order passed by the Court and the review applications were disposed on merits and this clarification petition is liable to be dismissed.

4. Heard both sides and perused the entire materials available on record.

5. In this case, there is no dispute that the deceased workman namely K. Raman was charged for the misconduct of unauthorized absence and thereafter, he was removed from service and the same was challenged through an industrial dispute in I.D. No.61 of 2005 and the same was dismissed and the said award was challenged by the workman by filing a Writ petition and this Court ordered to remit back the matter to the Labour Court for fresh consideration. Against which, the workman filed a review petition and the same was also dismissed. Thereafter, the workman has preferred Writ appeals before this Court and the Hon'ble Division Bench of this Court has set aside the punishment awarded to the workman through an order dated 05.09.2012. The common order passed in the said Writ appeals was challenged by the 2nd



respondent through Special Leave Petitions before the Hon'ble Supreme Court and the same were also dismissed. The Hon'ble Division Bench of this Court has ordered for reinstatement and modified the punishment of removal from service into postponement of increment for a period of 2 years with cumulative effect. At that time, this Court denied backwages and not awarded continuity of service. In the meantime, a Contempt Petition was filed and also pending. Thereafter, the workman has filed clarification petition and due to the pendency of the Contempt petition, the said clarification petition was withdrawn and thereafter, the Contempt petition was closed as 'abated' as the petitioner died. Thereafter, the legal heirs of the workman filed review applications. This Court dismissed those applications on that ground that there is no error apparent and already Contempt petition and Clarification petitions were disposed of.

6. This Court perused the records. As per the records, it is seen that the said Contempt petition was closed as 'abated', since the petitioner died during the pendency of the said proceedings and due to the pendency of the Contempt petition, the earlier clarification petition was withdrawn with liberty to file appropriate petition. Therefore, those petitions have not been disposed of on merits. The Hon'ble Division Bench of this Court in the Writ appeals had categorically held in Para 22, 23, 27, 30 and 31 as follows:

"22. The charge memo was issued as early as on 19 March 1998 and it culminated in passing an order of removal from service on 25 May 1998. The award of the Labour Court was on 11 June 2007. When it was made out that there were no legally acceptable evidence before the enquiry



officer, to arrive at a finding regarding misconduct, there was no question of remanding the matter to the Labour Court, so as to enable the Corporation to fill up the lacunae. It is always open to the Court to mould the relief in such cases. Therefore, on a careful consideration of the entire factual matrix, we are of the view that, having accepted the case of the appellant with regard to the legality and correctness of the enquiry proceedings, the learned Single Judge should have decided the matter on merits.

23. The next core question is as to whether the punishment was disproportionate to the charges. We are dealing with this question not withstanding the fact that the enquiry was not fair and proper. This course is adopted on account of the peculiar background facts and the pendency of matter for the last fourteen years before various authorities.

27. The background facts of this case, considered in the light of the illegal and irregular enquiry proceedings, and similar orders passed by the Corporation, imposing lesser punishment itself, would prove that the punishment imposed on the appellant was disproportionate to the charges.

30. The charge sheet was issued in the case on 17 February 1998. The appellant was removed from service on 25 July 1998. The appellant is out of employment for all these years. Ordinarily we would have remitted the matter to the disciplinary authority for imposing appropriate punishment. Such a course is not necessary in this case for more than one reason. The appellant has already produced voluminous documents before us in support of his contention that under similar circumstances only lesser punishments were given to the other employees. When such orders are before us, evidencing imposition of lesser punishments and that too for unauthorised absence, even extending to more than six months, there is no question of imposing a different punishment on the appellant. The order passed earlier by the Corporation would be a guiding factor for imposing appropriate punishment. Therefore, with a view to put an end to the lis, once for all we consider it appropriate to impose appropriate punishment on the appellant.

Disposition:

31. Accordingly, we set aside the order passed by the disciplinary authority as confirmed by the Appellate Authority and the direction given by the learned Single Judge to consider the legality and correctness of the enquiry proceedings. The punishment of removal of the appellant from service is modified into one of stoppage of two increments with cumulative effect for a period of two years and denial of back-wages for the entire period. The Corporation is directed to implement our direction by re-instating the appellant into service within a period of one month from the date of receipt or production of a copy of this judgment”.

Therefore, the Hon’ble Division Bench of this Court in the appeals came to a conclusion that notwithstanding the fact that the enquiry was not fair and



proper dealt with the question of punishment. The final order passed by the Disciplinary Authority in other similarly placed matters would made clear that with respect to other employees, only minor punishments were imposed, even though the charges were more or less the same and the punishment awarded to the petitioner was disproportionate to the charges and set aside the order passed by the disciplinary authority as confirmed by the appellate authority and the direction given by the learned single Judge to consider the legality and correctness of the enquiry proceedings and the punishment of removal from service was modified into one stoppage of two increments with cumulative effect for 2 years and denial of back-wages for the entire period. Even though, the Hon'ble Division Bench declined to award backwages, there is no observation about the continuity of service. Since the punishment was modified, as far as the continuity of service is concerned, it would follow as a matter of law.

7. Once the punishment of removal from service is set aside and the punishment was modified into stoppage of increments, the continuity of service would follow unless specific order passed for denial of continuity of service. Due to denial of back-wages by the Hon'ble Division Bench, if the intention of the Hon'ble Division Bench is to deny the continuity of service, then the Court ought to have mentioned about the continuity of service. In the absence of specific order about the denial of continuity of service, we can infer that the



workman is entitled for continuity of service, after setting aside the punishment of removal from service.

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8. At this juncture, the learned counsel appearing for the petitioners has relied upon the following judgments:

(i) Nandkishore Shravan Ahirrao vs. Kosan Industries (P) Ltd., reported in [2020] 1 S.C.R. 90.

(ii) Gurpreet Singh v. State of Punjab reported in 2002 (9) SCC 492.

(iii) Hamirbhai Megabhai Gohil vs. State of Gujarat reported in 2022(1) LLJ 614 (Guj.).

(iv) Director General I.C.M.R. vs. D.K. Jain reported in 2007 (2) LLJ 721 (SC).

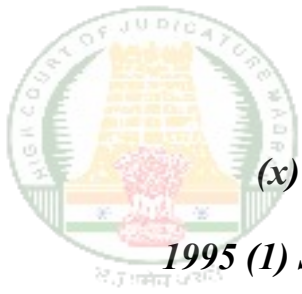
(v) Deepali Gundu Surwase v. Kranti Junior Adhyapak reported in 2013 (10) SCC 324.

(vi) Om Prakash and another v. Delhi Jal Board reported in 2015(4) LLJ 412.

(vii) Bhagwan Sarup vs. Presiding Officer, Labour Court reported in 2016(1) LLJ 391.

(viii) Raj Bahadur Narain Sing Sugar Mills vs. Assistant Commissioner, Haridwar reported in 2018 (2) LLJ 59.

(ix) Board of Central for Cricket v. Netaji Cricket Club reported in AIR 2005 SC 592.



(x) *Commissioner of Sales Tax JLIC v. Pine Chemicals reported in 1995 (1) SCC 58.*

(xi) *M/s. Shivshankar Dal Mills v. State of Haryana reported in AIR 1980 SC 1037.*

(xii) *Parent Association of Students v. M.A. Kha reported in 2009 (2) SCC 641.*

(xiii) *Shoba Ram Raturi v. Haryana Vidyalaya Parasaran Nigam Limited reported in AIR 2016 SC 157.*

(xiv) *State of Uttar Pradesh v. Dayanand reported in AIR 2013 SC 3066.*

(xv) *Workmen of Sudder Workshop of Jorehan Tea & Co. vs. The Management reported in 1980 (2) LLJ 124 (SC).*

9. The Hon'ble Supreme Court in *Nandkishore Shravan Ahirrao vs. Kosan Industries (P) Ltd., reported in [2020] 1 S.C.R. 90, in para no.7*, has held as follows:-

“7. *Ex facie*, the Labour Court having awarded reinstatement to the appellant, continuity of service would follow as a matter of law. The award of the Labour Court dated 27 February 2008 does not specifically deny continuity of service. Hence the observation of the High Court to the effect that the Labour Court had denied continuity of service is erroneous and would accordingly stand corrected in terms of what has been observed herein-above. The appellant would be entitled to continuity of service”.



9.1. The Hon'ble Supreme Court in ***Gurpreet Singh v. State of Punjab reported in 2002 (9) SCC 492*** held that once the order of termination is set aside and reinstatement order is passed, the continuity of service could not be declined.

On a careful perusal of the above said judgments, it is clear that once reinstatement is awarded by setting aside the order of termination, the continuity of service could not be denied. This is a case of reinstatement and not a case of fresh appointment. In a case of fresh appointment, there should be no any continuity of service. Once the Court ordered for reinstatement, continuity of service to such employee cannot be denied, merely because the Court has failed to record the expression 'continuity of service' and if any order passed for reinstatement into service, the same would amount to continuing his service.

9.2. In ***Deepali Gundu Surwase v. Kranti Junior Adhyapak reported in 2013 (10) SCC 324 case***, the Hon'ble Supreme Court after referring the case of the Hon'ble Larger Bench of the Hon'ble Supreme Court in ***Surendra Kumar Verma v. Central Govt. Industrial Tribunal-cum-Labour Court reported in (1980) 4 SCC 443***, held that on reinstatement of employee / workman cannot claim continuity of service as of right is contrary to the ratio of the judgments of Hon'ble Three-Judge Benches in *Surendra Kumar Verma* case and the same is against the very concept of reinstatement of an employee. But in a case of



reinstatement, the continuity of service would follow as a matter of law.

10. In the case of hand also, the Hon'ble Division Bench set aside the order of termination and modified the punishment and ordered for reinstatement and the punishment was modified as 'postponement of increment for a period of two years with cumulative effect'. Therefore, the continuity of service would follow as a matter of law. When the Hon'ble Division Bench of this Court categorically held that there is no backwages. In the absence of any specific order declining continuity of service, it is deemed to be continuity of service, since reinstatement was ordered. Therefore, the common order passed by the Hon'ble Division Bench of this Court in Review Application Nos.32 and 33 of 2023 is clarified and the petitioner is entitled to continuity of service for retirement benefits. The 2nd respondent is directed to pay the retirement benefits of the deceased K. Raman by taking into consideration the continuity of service.

(M.S.RAMESH J.)(P.DHANABAL J.)
15-12-2025

mjs

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



To

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Central Government Industrial
Tribunal -Cum--Labour Court, 1st
Floor, B-Wing , 26 Haddows Road,
Sastri Bhavan, Chennai- 600 006

2.The Director (Personnel)
Neyveli Lignite Corporation Ltd,
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