



W.P.No.28631 of 2018

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2025

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**W.P.No.28631 of 2018
and W.M.P.Nos.33416 of 2018 and 35518 of 2023**

P.V.Madhavan

... Petitioner

Vs.

The Management of Brakes India Limited,
Rep.by its Secretary,
Paadi,
Chennai-50.

... Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records pertaining to the order dated 30.01.2004 passed by the I Additional Labour Court, Chennai, in I.A.No.347 of 2003 in I.D.No.93 of 1981 and quash the same.

For Petitioner : Mr.K.V.Dhanapalan
for Ms.G.Vaishali

For Respondents : Mr.Anand Gopalan
for M/s.Agam Legal Advocates
for R1



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ORDER

This Writ Petition has been filed by the petitioner/employee challenging the order dated 30.01.2004 passed by the I Additional Labour Court, Chennai, in I.A.No.347 of 2003 in I.D.No.93 of 1981.

2. The facts of the case are that the petitioner was working as Electrician in the respondent Management in the year 1963 and he was dismissed from service on 04.09.1979. The respondent Management has filed an approval petition under Section 33(2)(b) of the Industrial Disputes Act seeking approval of the dismissal order and it was allowed. Thereafter, the petitioner raised Industrial Dispute No.93 of 1981 under Section 2(a)(2) of the Industrial Disputes Act, 1947 before the I Additional Labour Court, Chennai, and since the counsel for the petitioner has not appeared on 28.08.2002, the Industrial Dispute was dismissed for default on 28.08.2002 and the petitioner has filed I.A.No.347 of 2003 to set aside the dismissal order dated 28.08.2002, however, it was dismissed on 30.01.2004. Challenging the same, the present Writ Petition has been filed.



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3. The learned counsel appearing for the petitioner submits that the order of dismissal was admittedly passed by the respondent management on 04.09.1979 and the litigation is pending for over 44 years. In the meanwhile, the petitioner/employee passed away and therefore, the substitution petition has been filed in this writ petition. The Labour Court has dismissed the Industrial Dispute for default on 28.08.2002 and also dismissed the Interlocutory Application filed by the employee to restore back the Industrial Dispute. However, since the workman is not available to adjudicate the issue, this Court may fix reasonable compensation.

4. The learned counsel appearing for the respondent Management submits that the order of dismissal was passed on 04.09.1979 and the petitioner raised Industrial Dispute in the year 1981 and it was dismissed on 28.08.2002 and thereafter, he filed I.A.No.347 of 2003 to set aside the dismissal order dated 28.08.2002 and it was also dismissed on 30.01.2004. After a lapse of 14 years, this writ petition has been filed in the year 2018



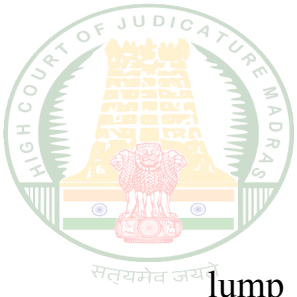
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and now, the petitioner is not alive. Hence, he prays for dismissal of this writ petition.

5. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the first respondent.

6. The factum regarding the employment of the petitioner/employee is not in dispute. Admittedly, the petitioner was dismissed from service on 04.09.1979 and thereafter, he raised Industrial Dispute in I.D.No.93 of 1981 and it was dismissed for default on 28.08.2002 and the petitioner has filed I.A.No.347 of 2003 to set aside the dismissal order dated 28.08.2002 and it was also dismissed on the ground that there was no sufficient reason assigned to set aside the dismissal order dated 28.08.2002, vide impugned order dated 30.01.2004. However, during the pendency of this petition, the petitioner passed away and therefore, adjudicating the issue on merits would not serve any purpose. Hence,, this Court, in order to strike a balance between the parties, is inclined to award a



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lump sum compensation of Rs.1,00,000/- to be paid by the respondent Management to the legal heirs of the petitioner/employee within a period of four weeks from the date of receipt of a copy of this order.

7. Accordingly, this Writ Petition is disposed of. There shall be no order as to costs. Connected miscellaneous petitions are closed.

01.04.2025

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

To
The Management of Brakes India Limited,
Rep.by its Secretary,
Paadi,
Chennai-50.



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M.DHANDAPANI, J.

ssb

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