



W.P.(MD).No.1965 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 20.06.2025

ORDER PRONOUNCED ON : 02.07.2025

**CORAM:
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P.(MD).No.1965 of 2019
and WMP(MD).Nos.1611 of 2019, 6293 & 6296 of 2025**

The Management
Nachammai Cotton Mill
Chettinad
Sivagangai District

....Petitioner

Vs

M.Periyanan

....Respondent

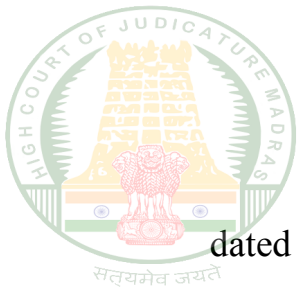
Prayer : This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the award of Labour Court, Madurai in I.D.No.20/2012 dated 08.01.2019 and quash the same.

For Petitioner : Mr.V.O.S.Kalaiselvam

For Respondent : Mr.S.Bharathy Kannan

ORDER

The present writ petition has been filed by the Management of a Textile Mill challenging the order passed by the Labour Court in I.D.No.20 of 2012



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dated 08.01.2019.

WEB COPY (A)Factual Background:

2.The respondent herein who was working in the spinning section in the Textile Mill was issued with a charge memo on 22.06.2010 alleging misconduct on the ground of insubordination. The respondent has submitted his explanation on 28.06.2010. In the domestic enquiry, the charges were found to be proved and a second show cause notice was issued to the respondent on 25.08.2010. The respondent submitted his explanation on 05.09.2010 and a final order of dismissal was passed on 09.09.2010. Challenging the same, the respondent had filed I.D.No.20 of 2012. The Labour Court found that the allegation of insubordination on the part of the respondent has not been proved and directed reinstatement with full backwages and continuity of service and other attendance benefits. Challenging the same, the present writ petition has been filed by the Management.

(B) Submissions on either side are as follows:

3.The learned counsel appearing for the writ petitioner had contended that the Management has entered into an settlement under Section 18(1) of Industrial Disputes Act fixing the work load of the employees. However, the respondent had refused to follow the order of the supervisor and therefore, a



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basic report was sent by the superintendent as against the respondent herein.

The respondent herein had violated the work load settlement and refused to undertake the enhanced work. Therefore, it is a clear case of insubordination.

4. According to the Management, the respondent workman claims that Section 18(1) settlement has been entered into only by the members of INTUC Union and not CITU Union to which he belongs. Therefore, the said 18(1) settlement is not binding upon him. However, the respondent herein had received the benefits arising out of the said 18(1) settlement dated 20.03.2009. Under the said settlement, ID cards were issued to the petitioner and he received the enhanced salary. When a workman receives a benefit under 18(1) settlement, he cannot contend that he is not a party to the said settlement.

5. The learned counsel for the Management had further submitted that when majority of the employees have accepted the said settlement and the said settlement is fair, just reasonable and mutually advantageous to both the workman and the management, the same cannot be challenged by a few workmen, even though they have not signed the same. He relied upon a judgment of the Karnataka High Court reported in **2009 (5) L.L.N.89 (Case No.47) (First Flight Couriers Ltd., Bangalore Vs. Karnataka Couriers, Cargo and General Employees' Union, Bangalore and another)** in support of his contention.



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6.Per contra, the learned counsel for the respondent/workman had contended that a settlement has been reached between the employees and the employers under Section 12(3) of the Industrial Disputes Act. In 12(3) settlement that was entered into between the management and the workman on 10.04.2003, a different work load was agreed upon between the parties. The workman has not violated the said settlement or never refused to undertake the work as per Section 12(3) settlement. In the Section 18(1) settlement, the respondent or his union is not a party. Therefore, there is no insubordination.

7.The Labour Court after considering the submissions made on either side and after a detailed discussion, had arrived at a finding that the management cannot insist the workman to follow a settlement reached under Section 18(1) of the Act which fixes the work load, in view of the fact that the workman or his union is not a party to the said settlement. The Labour Court proceeded to set aside the order of dismissal and directed reinstatement with continuity of service with full backwages.

8.Heard both sides and perused the material records.

(C)Discussion:

9.A perusal of show cause notice to the respondent on 26.12.2009 clearly reveals that the workman had refused to undertake certain work as per Section 18(1) settlement dated 20.03.2009. There is no allegation that the



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petitioner is refusing to undertake the work as per 12(3) settlement dated 10.04.2003. The said 18(1) settlement has been entered into between the management and the members of INTUC Union in which neither the respondent nor his trade Union namely CITU are parties. In such circumstances, the allegation of insubordination cannot be made as against an employee in not taking up additional work based upon a settlement to which he is not a party.

10.The show cause notice does not make any allegation as against the respondent that he is refusing to take up the work as per Section 12(3) settlement dated 10.04.2003 which is marked as Exhibit W1. Merely because some benefits were conferred upon the respondent, based upon 18(1) settlement, the entire 18(1) settlement will not be binding upon the workman, unless the Union to which he belongs is a party.

11.It is settled position of law that a settlement under Section 18(1) of Industrial Disputes Act is binding only upon the parties to the said settlement. Therefore, the allegation of misconduct based upon the work load fixed under the settlement which is not binding upon the respondent, is clearly unsustainable in the eye of law. The Labour Court has properly appreciated the factual and legal position and proceeded to set aside the order of dismissal.



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WEB COPY 12. In view of the above said deliberations, there are no merits in the writ petition. The writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

02.07.2025.

Internet : Yes/No
Index : Yes/No
NCC : Yes/No
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To

The Labour Court
Madurai



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R.VIJAYAKUMAR, J.

msa

Pre-delivery order made in

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