

W.P.(MD)No.24956 of 2018 etc., b.....

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.01.2025

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THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.(MD)Nos.24956, 24967, 24976, 25288 of 2018

and

W.M.P.(MD)Nos.22649, 22613, 22629 and 22887 of 2018

P.Suresh	...Petitioner in W.P.(MD)No.24956/2018
P.M.Jeyakumar	...Petitioner in W.P.(MD)No.24967/2018
R.Kittukrishnan	...Petitioner in W.P.(MD)No.24976/2018
P.Eswaran	...Petitioner in W.P.(MD)No.25288/2018

-Vs-

The Management,
TVS Interconnect Systems Ltd.,
No.7-B, West Veli Street,
Madurai-625 001.

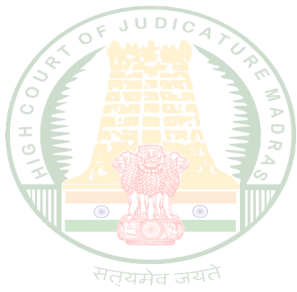
...Respondent in all petitions

COMMON PRAYER:Writ Petitions are filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the Presiding Officer, Labour Court, Madurai relating to its orders in I.D.No.100, 101, 103 and 102 of 2012 dated 30.03.2015 and quash the same and consequently direct the Respondent Management to reinstate the Petitioners in their service with full back-wages, continuity of service and with all other emoluments.

In all petitions:

For Petitioner : Mr.K.R.Shivasankari
For Respondent : Mr.Krishna Srinivasan
Senior Counsel

for M/s.S.Ramasubramanian and Associates



COMMON ORDER

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These writ petitions have been filed challenging the orders passed by the Labour Court confirming the validity of the closure of the respondent company and payment of retrenchment compensation.

2.The learned counsel for the petitioners in these petitions submits that in the present case, initially the petitioners were appointed in TVS Interconnect System Ltd.. Initially, the company was known as TVS Dupont Ltd., and later it was changed into TVS R & M Ltd.. Thereafter, it was changed as TVS ICS Ltd., and finally, the respondent management was known as TVS Interconnect System Ltd. Thereafter, the respondent Management diverted a new Company in the same campus as ZF TVS (P) Ltd.. The workmen were informed that the respondent Management proposed to lock down the manufacturing department and to take the workmen willing to continue to work in ZF TVS (P) Ltd..

3.Accordingly, the petitioners were asked to resign their jobs and fresh appointment letters were issued to them. However, all of a sudden, a closure letter was issued by the respondent Management on 23.04.2012 retrenching the petitioners stating that they are going to close the company due to failure of the company. Against which the petitioners made objection and challenged the



order of retrenchment before the Labour Court. The Labour Court without considering the submissions of the petitioners had confirmed the order of closure of the Company. Challenging the same, the petitioners have filed these writ petitions.

4.The learned counsel for the petitioners submits that in the present case, the respondent management is changing its name habitually with a *mala fied* intention to avoid payment of more monetary benefits to the long service rendered by the petitioners and other workers. He further submits that some of the employees have been given employments in some other group companies. The petitioners could have been accommodated in the same company. However, the respondent had deliberately has not done so, since the petitioners have demanded continuity of service. Further, he would submit that the petitioners have not been paid with the real salary as well as gratuity as on today. Hence, prayed for allowing these writ petitions.

5.On the other hand, the learned counsel for the respondent submitted that there is no truth in the submissions made by the petitioners. Due to the loss in the business, the company was closed. The respondent company is a separate entity and therefore, it would not be possible to simply transfer the employ from one company to another company. All these aspects have been

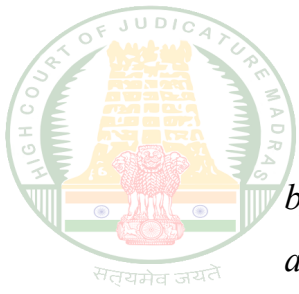


rightly considered by the Labour Court and the applications of the petitioners were dismissed. Further, there is no truth with regard to the submission of the petitioners that only for the purpose of denying the benefits available to the petitioners, the respondent Management had closed the company. He would fairly submit that as on date, the petitioners in all these writ petitions are entitled to only leave salary as well as gratuity along with interest. He would fairly submit that the respondent Management is ready to pay the entire amount.

6.I have heard the submissions made on either side and perused the materials placed on record.

7.The main contention of the petitioners was that the employees, those who are worked in the respondent Management, have been accommodated with the same Company, but the petitioners have not been provided any such employment. As far as this submission is concerned, the Labour Court after analyzing the materials placed on records has passed the following order:

“15. As already pointed out, the petitioner has alleged that the respondent company was shown to have been closed, but the same was continued in the name of newly floated company ZF TVS(P) Ltd. It is pertinent to mention that the petitioner has himself in the main petition has admitted that the said ZF TVS (P) Ltd was started three years prior to the alleged closure of the respondent company. But according to the petit.oner, the work orders received



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by the respondent company were diverted to the ZF TVS (P) Ltd., and they had transferred the willing workers of the respondent company to the new company on contract basis and started retrenchment of other unwilling workmen. The petitioner has not produced any evidence to substantiate the said allegations. Moreover, it is pertinent to mention that during his cross examination, he would admit that he does not know as to whether any workers of the respondent company had joined in the ZF TVS(P) Ltd., company. Though the petitioner was seriously alleging that the willing workers of the respondent company were transferred to the new company and they were engaged on contract basis and the remaining unwilling workers were threatened to resign the job and left the respondent company, the petitioner had admitted in his evidence that he was not aware of any such transfer of workers. It is pertinent to note that the Management witness M.W.1, in cross examination, has categorically stated that TVS Cherry was changed to ZF TVS (P) Ltd and specifically denied the suggestions of the petitioner that the respondent company was not closed and the same was in operation in the name of ZF TVS (P) Ltd. Hence the contention of the petitioner that the respondent has been changing the name of the company habitually with malafide intention to avoid payment of more monetary benefits to the long service workers is devoid of substance and is liable for rejection.”

8.The Labour Court only based on the evidence available on record, both oral and documentary, has dismissed the application filed by the petitioners. There is no proof for the submissions made by the petitioners that only for the



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purpose of denying the service benefits, the company was closed. Further, perusal of the records and the judgment made by the Labour Court would clearly shows that the company was closed only on account of the failure in business and after following the due process of law. Further, the retrenchment was also made known to the workman under due process of law. This Court also finds that there is no illegality in the closure of the company and the judgment rendered by the Labour Court.

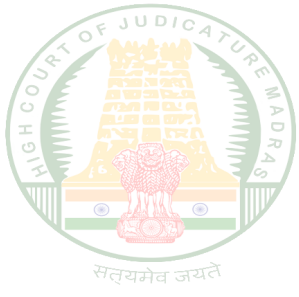
9.Further, the respondent Management is ready to pay the entire due to the petitionres. In view of the same, this Court directs the respondent Management to pay the amount due to the petitioners within a period of two (2) weeks from the date of receipt of a copy of this order.

10.With the above direction, these writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

27.01.2024

Index:yes/no
Internet:yes/no
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To
Labour Court, Madurai



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KRISHNAN RAMASAMY, J.

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