



WEB COPY

W.A.No.3550 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on :12.08.2026

Pronounced on :21.08.2026

Coram:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
AND
THE HONOURABLE MR.JUSTICE E.MANOHARAN

Writ Appeal No.3550 of 2023
and
C.M.P.No.29030 of 2023

The Management of
Dynamatics Technologies Limited
(JKM Automotive)\
JKM Park, F-67 and F-68
Sipcot Industrial Park,
Irungattukottai, Sriperumbudur,
Kanchipuram District.

Presently at
Dynamatic Technologies Ltd.,
JKM Plaza, Dynamatic Aerotropolis
#55, KIADB Aerospace Park,
Devanahalli, Bangalore 562 110.

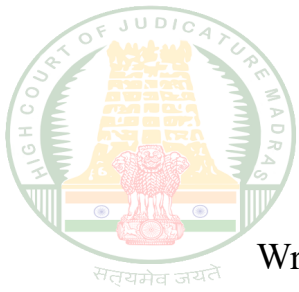
..Appellant/Petitioner

/versus/

1.D.Sridhar,
S/o R.Duraikannu,
No.104, Vittilapuram Main Road,
Thirukkazhukkundram Taluk,
Kancheepuram District.

2.The Presiding Officer,
1st Additional Labour Court,
Labour Court, Chennai.

..Respondents/Respondents



WEB COPY

Writ Appeal has been filed under Clause 15 of the Letters Patent to set aside the order dated 16.10.2023 made in W.P.No.17631 of 2018.

For Appellant :Mr.M.Vijayan for
M/s King and Partridge

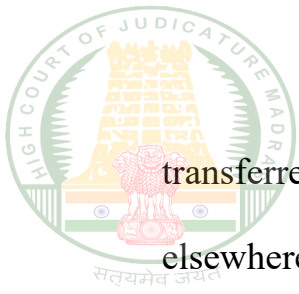
For Respondents :Mr.K.Thirumavalavan for R1
R2-Labour Court in both cases

JUDGMENT

Dr.G.Jayachandran, J
And
E.Manoharan, J.

The appellant herein is the Management under which the first respondent, D.Sridhar, was employed as an “Operator Trainee” vide order dated 11.02.2002. He became the permanent employee with effect from 11.08.2005.

2. The appellant-company is engaged in the manufacturer of automobile spare parts for automobile engines. Due to acute competition, the company was severely affected and thereafter, it confronted a heavy recession in its business. Hence, Section of workmen were exempted from reporting for duty with effect from 13.06.2014 until further orders. They all were granted holiday with pay. The first respondent, D. Sridhar, was one among them. After receiving the communication, dated 11.06.2014, some of the workmen were



transferred/deputed to other units of the same management, but located elsewhere. In the case of the first respondent, he was deputed/transferred to the Windmill Unit at Coimabtoire and this was communicated to the first respondent vide letter dated 16.07.2014 requesting him to report for duty at the Windmill Unit at Coimbatore on 21.07.2014. The deputation/transfer order also indicated that the said transfer is for a period of three months and for the said dislocation, the first respondent will be paid one-time expense of Rs.3,000/- towards all incidental and miscellaneous expenses and transfer allowance of Rs.1000/-. The first respondent did not report to duty. However, he raised a claim petition under Section 33(C)(2) of the Act, before the I Additional Labour Court, Chennai stating that he was not allowed to report for duty from 13.06.2014 and this amounts to denial of employment.

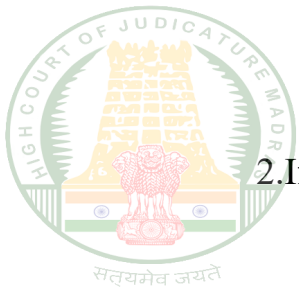
3. The first respondent contended that though the communication dated 11.06.2014 is disengagement for a period of 3 months due to recession and the employee will be paid the wages without work during the said period, in fact, the management had engaged contract workers in his place. Further, full wages to the petitioner was not paid from the month of July 2014, only a sum of Rs.16,100/- was paid as against Rs.27,280/- Hence, the management is liable to provide employment or in alternative, to pay the full monthly wages to the petitioner at the rate of Rs.27,280/- from the month of July 2014 to May 2015.



4. The management opposed the claim petition on the ground that the contention in the claim petition that he was denied with employment and the contract worker is engaged in his place, is false. Due to recession and other reasons, the claim petitioner was informed that he need not report for duty from 13.06.2014 on wards, however, the wages were paid to them. Instead of the workers idling inside the factory premises, they were asked not to report duty until further orders. The decision was taken to avoid undesirable activities on the part of certain sections of the workmen. Thereafter, the transfer order dated 16.07.2014 was issued to the claim petitioner, directing him to report duty at Palladam, Coimbatore District, where the Windmill plant of the management is located. The said transfer order was temporary in nature and was for the period of three months as expressly stated in the transfer order. Despite the said communication the first respondent did not join duty at the transferred place but pursued the claim petition for the period, including the period for which he had refused to join duty.

5. The I Additional Labour Court, Chennai, on considering the claim petition in C.P.No.331 of 2015 filed by the first respondent under Section 33(C) (2) of the Industrial Disputes Act, 1947, and the counter of the management formulated the following points for determination:-

1. Whether the petitioner has a pre-existing right to claim the arrears of wages?



2.If so, what is the money value of the claim?

WEB COPY

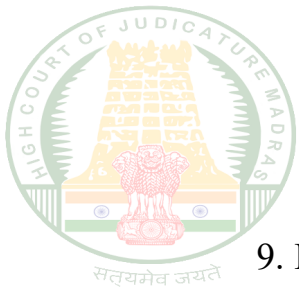
6. Taking note of the admission of the claim petitioner that he came to know about the transfer order on 27.10.2014 and the admission of the management witness that the transfer order dated 16.07.2014, marked as Ex.R11 was sent to the different address and not to the permanent address of the first respondent and only the subsequent reminder letter dated 27.10.2014 marked as Ex.P13, was received by the first respondent. The Labour Court held that even assuming that the first respondent wantonly evaded to comply with the transfer order which was for a restricted period of three months, the remedy open to the management was to issue show cause notice, frame a charge and initiate disciplinary proceedings for unauthorized absence. Since the management had stopped paying the wages as promised, the claim petition was allowed computing a sum of Rs.2,83,980/- which covers the period from July 2014 to May 2015 at the rate of Rs.27,280/-.

7. Being aggrieved, the management preferred writ petition No.17631 of 2018 and the same came to be dismissed by the learned Single Judge of this Court vide order dated 16.10.2023. In the intra-court appeal filed by the management, it is stated that the first respondent admits that he received the second reminder letter regarding the transfer/on deputation, to Palladam Unit, Coimbatore District and he responded to the said reminder letter vide
Page Nos.5/12



communication dated 02.11.2014 stating that he is willing to go to Coimbatore, if the wage arrears given to him. Therefore, despite having knowledge of the transfer order, the first respondent failed to comply with the same. The I Additional Labour Court ought not to have allowed the claim petition in its entirety. In any event, the award ought to have been restricted only for the period from July 2014 to 27.10.2014 and when there is no proper computation of claim, the I Additional Labour Court as well as the learned Single Judge should have declined to entertain the claim petition. Instead of dismissing the claim petition, the Court mechanically allowed the claim petition without proper appreciation of the evidence and the admission of the claim petitioner.

8. The learned counsel appearing for the first respondent submitted that the initial disengagement of the first respondent vide communication dated 11.06.2014 itself is not borne out of bonafide intention and the promise made in the said communication has not been complied in letter and spirit. Meanwhile, the transfer order dated 16.07.2014 was sent to the temporary address of the first respondent and the same returned as 'unserved'. For nearly four months, the management did not send any reminder or paid the salary as promised, in their earlier letter dated 11.06.2014. While so, the claim petition for a period between July 2014 and May 2015 is sustainable.



9. Both the I Additional Labour Court as well as the learned Single Judge only after proper appreciation of the evidence, have allowed the claim petition and there is no ground to interfere with the concurrent finding.

10. Heard both sides. Records perused.

11. The short point raised in the intra-court appeal is regarding the computation of the claim. While the I Additional Labour Court as well as the Learned Single Judge has accepted the case of the claimant that the period of non-payment of wages is between July 2014 and May 2015 and the wage is Rs.27,280/- per month. The management consistently contended that the non-payment of wage was due to the refusal of the first respondent to join the Windmill Unit at Palladam, Coimbatore District, as per the transfer order dated 16.07.2014. Before the transfer order, the management has requested the respondent and few others not to report for duty from 13.06.2014 until further orders. However, the salary was paid to them without any duty. The case of the first respondent is that the full wages were not paid to him after July 2014 and the transfer order dated 16.07.2014 has not been communicated to him and when he came to know about the transfer order, vide letter dated 27.10.2014, he requested the Management to pay the salary arrears for the four months as a precondition for joining the new place of posting. Since the arrears amount were

Page Nos.7/12



not paid, he did not join at the new place. Therefore, he is entitled for the salary upto May 2015.

WEB COPY

12. A perusal of the communication dated 11.06.2014 (Ex.P4) filed before the I Additional Labour Court disclosed that due to recession, the management has decided to pay salary to the first respondent without work. However, the management requested him not to report for duty till their recession gets improved. Thereafter, on 16.07.2014 the transfer order been issued to the first respondent which reads as below:-

16.07.2014

To,
Mr.D.Sridhar.
Emp.No.253

Dear Mr.D.Sridhar,

Sub: Deputation- Reg.

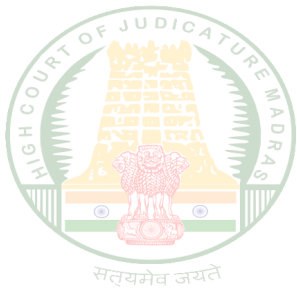
Sir,

You are aware that the industry has been facing acute recession and this has affected the Company's order Position very badly. Hence the Company is unable to provide an employment to you and other employees in all the three shifts and the most of the employees are also idling most of the time. At this juncture, the idleness is resulted in various unwanted / undesirable activities by section of employees and this affects the industrial peace in the Company.

In the light of the above and in order to avoid idleness of workmen and utilize you manpower optimally, you are hereby posted to work in our Windmill at Coimbatore No.12MW Windfarm, Varappatty Village, Sulur Taluk, Palladam. Hence, you are hereby requested to proceed to Coimbatore on deputation with effect from Monday the 21st of July - 2014. This on duty is applicable for you temporarily for three months.

In order to felicitate yourself to settle down smoothly in your place of posting, we are happy to inform you that, the following arrangements have been made: -

1. A one-time expense of Rs. 3,000/- will be given to you towards all incidental and miscellaneous expenses to facilitate



WEB COPY

W.A.No.3550 of 20



yourself and make the necessary arrangements.

2. This is not to be quoted as a precedent in future or referred to any other cases. We are sure you will add value to the place wherever you are posted.

3. All other terms and conditions of your previous Appointment Order remain unaltered.

Please meet S.Suresh, Asst. Manager Maintenances, No.12MW Windfarm, VarappatQ* Village, Sulur Taluk. Palladam.

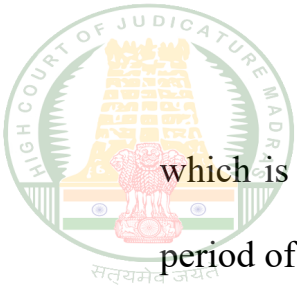
You will be paid a deputation allowance of Rs. 1000.

Thanking you.

Yours faithfully,

For Dynamatic Technologies Limited,
Sd./-xxx
D.Raman,
Factory Manager.

13. This communication was not received by the first respondent since he has left the address in which the communication had been sent. However, Ex.P6 letter dated 27.11.2014 been sent by the first respondent to the management in which he accepting the transfer, demanded four months salary as a precondition to joining at the new place. During the course of cross examination he has admitted that he had knowledge about the transfer order on 27.10.2014 itself. While so, we find that the I Additional Labour Court has been misdirected himself by holding that the management having failed to take action for unauthorized absence through departmental proceedings, it could not deny the salary till May 2015. When the employee is aware of the transfer order as early as 27.10.2014, he must come with a genuine reason for not reporting for duty. The only reason stated as per his own communication dated 27.11.2014

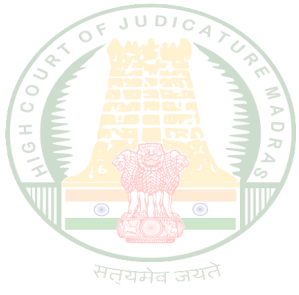


which is marked as Ex.R13 is that he must be paid the arrears of wages for a period of four months and only then he will join the duty.

WEB COPY

14. We are of the view that if at all there is any claim regarding arrears of salary, voluntarily withdrawing from reporting for duty is not the answer for unauthorized absence. The claim petition filed for the larger period could have been filed by the first respondent even after joining the duty at Palladam, Coimbatore District. The reason for not joining duty, despite having knowledge of the transfer on 27.10.2014, is unexplained by the first respondent. While so, for an unexplained absence from duty, the employee cannot claim salary. Hence, we find some force in the contention of the appellant that there is an error in computation of the claim petition. The I Additional Labour Court ought to have fixed the period for payment of wages only from July 2014 to 27.10.2014. For the remaining period, the absence has been unexplained. It being willful and not warranted, the employee cannot take advantage of getting salary without reporting for duty.

15. Hence, we modify the order of the I Additional Labour Court insofar as the period of wage, “Instead of the period from July 2014 to May 2015, we restrict the period from July 2014 to 27.10.2014 at the rate of Rs.27,280/- per month, after deducting the salary already paid to the petitioner for the month of July 2014.



WEB COPY

16. With the above modification, this Writ Appeal stands allowed. No order as to costs. Consequently, connected Miscellaneous Petition is closed.

(Dr.G.Jayachandran,J.)

(E.Manoharan,J.)

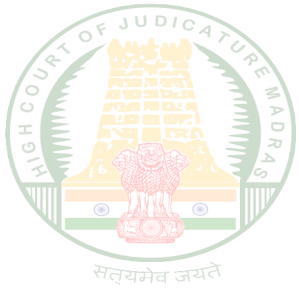
21.08.2026

Index:yes/no

Neutral citation:yes/no
ari

To

The Presiding Officer,
1st Additional Labour Court,
Labour Court, Chennai.



WEB COPY

W.A.No.3550 of 2023



Dr.G.Jayachandran,J.
and
E.Manoharan, J.

ari

delivery Judgment made in
Writ Appeal No.3550 of 2023
and
C.M.P.No.29030 of 2023

21.08.2026