

BEFORE THE PRINCIPAL LABOUR COURT, COIMBATORE.

Present :- Tmt. A. P. Latha, B.Sc., B.L.,

Presiding Officer, Principal Labour Court, Coimbatore.

Monday, the 23rd day of March 2026.

COMPUTATION PETITION No.135/2022

CNR No. TNCB04-000174-2022

P. Sivaprakash,

35/5, Annamalai Nagar,

Kavundampalayam,

Periyanaickenpalayam Post,

Coimbatore – 641 020.

...

Petitioner

~ Versus ~

The Management,

Pricol Limited,

Periyanaickenpalayam,

Coimbatore – 641 020.

...

Respondents

This petition came up for final hearing before this Court on 16.03.2026 in the presence of Thiru.S.Kumarasamy, Authorized Representative for the petitioner and Thiru.A.Shanmugavadivel, Advocate for the respondent, upon hearing the arguments of both sides, perusing the entire materials on record and having stood over for consideration till this date, this Court passed the following :-

ORDER

The petitioner/workman claims wage arrears for the period from 11.02.2019 to 10.02.2022 (36 months) amounting to Rs.8,86,032/- under Section 33C(2) of the Industrial Disputes Act, 1947.

2. Petition averments in brief :

The petitioner has been employed as a workman with the respondent Management since 01.07.1990 and was dismissed on 11.02.2019 during the pendency of conciliation proceedings arising out of a transfer dispute dated 01.12.2018. Though the Management filed an approval petition under Section 33(2)(b) of the Industrial Disputes Act, 1947 and tendered one month's wages of Rs.24,612/-, the petitioner did not encash the cheque, contending that the dismissal is illegal. As conciliation is pending, prior permission under Section 33(1)(b) is mandatory, and in any event, dismissal would attain *de jure* validity only upon approval under Section 33(2)(b), as held in Jaipur Zilla Sahakari Bhoomi Vikas Bank Ltd and case (2002 (2) LLN 6639) and also in Managing Director Tamil Nadu State Transport Corporation; case (2001(3) LLN 34) however, the Management later filed a joint memo on 15.04.2021 to close the approval petition, which was accordingly closed, leaving no petition approval pending in law. Hence, the dismissal is void and non-est in the eye of law. The petitioner is deemed to be in continuous employment from 11.02.2019. He had no gainful employment during the relevant period. Therefore, the petitioner is entitled to computation and payment of Rs. 8,86,032/- under Section 33(C)(2) of the Industrial Disputes Act, 1947 towards wages for 36 months.

3. Counter averments in brief :

The respondent denies all the allegations except those expressly admitted and submits that the computation petition is not maintainable either on facts or in law.

The petitioner, dismissed on 11.02.2019, but he has not challenged the order of dismissal through appropriate legal remedies under Sections 2A or 33A of the Industrial Disputes Act, 1947, but has wrongly invoked Section 33C(2) without any pre-existing or adjudicated right to wages. The entitlement of continuity of service and wages are disputed, and as such the disputed questions cannot be decided in computation petition. The approval application filed under Section 33(2)(b) was closed by joint memo dated 15.04.2021, wherein the petitioner undertook not to treat such closure as non-compliance; and hence, he is estopped from raising Section 33(2) (b) violation. Section 33(1)(b) is not attracted, as conciliation commenced only on 20.03.2019, after the dismissal. The issues raised are either barred by res judicata, res sub-judice, estoppel, or beyond the jurisdiction of this Court. The petitioner was gainfully employed, has claimed inflated wages including non-standard components, and has abused the process of law by filing this speculative petition. Therefore, the computation petition is liable to be dismissed in limine.

4. Points for Determination :

1. Whether the computation petition under section 33(c)(2) is maintainable in law?

2. Whether the petitioner is entitled for the amount as claimed?

5. During enquiry the petitioner is examined as PW-1 in support of his case, and Ex.P1 is marked. On the side of the respondent, neither oral evidence nor documentary evidence is adduced.

6. The plea of the petitioner is that the petitioner and other workers were transferred to other units of the respondent on 01.12.2018, that too, during the pendency of the conciliation proceedings in respect of the transfer without complying the provision of section 33(1)(b) and 33(2)(b) of the ID Act, the respondent dismissed the petitioner from service by an order dated 11.02.2019 which is not legal and therefore it is deemed that petitioner is still in service and hence the petitioner filed this petition claiming arrear of salary for the period from 11.02.2019 to 10.02.2022 totaling to a sum of Rs.9,10,044/- and urged to allow the petition.

7. The contention of the respondent is that the computation petition is not maintainable in law since the petitioner was dismissed from service on 11.02.2019 and without challenging the order of dismissal through appropriate legal remedies under section 2A or 33(A) of the ID Act, the petitioner can not have a legal claim under section 33(c)(2) of the ID Act and further urged that there is no adjudicating right to file the petition under section 33(c)(2) of the ID Act and urged to dismiss the petition.

8. It is an admitted fact that the petitioner employed as a workman with the respondent since 01.07.1990 and was dismissed on 11.02.2019 by the order of the respondent. Further it is also admitted fact that the petitioner was transferred to other unit of the respondent on 01.12.2018. The claim of the petitioner is that the petitioner is deemed to be in service since the order of the dismissal is effected by the respondent during the conciliation proceedings arising out of transfer dispute dated

01.12.2018. During evidence the petitioner admitted that through the Union entered into a settlement with the respondent and received all the amount due to him and no more amount is due from the respondent and in this regard the petitioner also filed Ex.P1 memo and pleaded to dismiss the claim petition. On a careful perusal of Ex.P1 memo and the evidence of PW-1 this court find that there is valid and acceptable reason to accept the plea of the petitioner and hence this petition is dismissed. Thus point no.1 and 2 are answered accordingly.

In the result the computation petition is dismissed. No order as to cost.

(Dictated to the Steno-Typist and computerised by her, corrected and pronounced by me on this, the 23rd day of March, 2026).

PRESIDING OFFICER,
PRINCIPAL ABOUR COURT,
COIMBATORE.

LIST OF WITNESSES EXAMINED

Petitioner's Side : PW-1 - P. Sivaprakash (Petitioner)

Respondent's Side : - Nil -

LIST OF EXHIBITS MARKED

For Petitioner Side :

Exhibits	Documents	Date	Remarks
Ex.P 1	Memo filed by the petitioner	16.02.2026	Xerox

Respondent Side : - Nil

PRESIDING OFFICER,
PRINCIPAL LABOUR COURT,
COIMBATORE.

Draft/Fair Order

CP No. 135/2022

Dt : 23.03.2026

PLC, CBE