

**BEFORE THE PRINCIPAL LABOUR COURT, VELLORE,
VELLORE DISTRICT.**

**PRESENT : Tmt.A.Packia Jothi, M.L.,
Presiding Officer.**

Tuesday, the 30th day of July, 2026

**I.D. No.51 of 2016
(CNR No.TNVL02-000114-2016)**

C.Radhakrishnan, aged 33,
S/o. Chakkarai Naicker,
No.618, Bajanai Koil Street,
Vaagai Nathakkollai Village,
Doosi Post,
Cheyyar Taluk – 631 701.

. . . Petitioner

Versus

The Managing Director,
Lotus Footwear Enterprises Limited,
Via Akkur,
Cheyyar Taluk,
Thiruvannamalai District.
Tamil Nadu – 631 701.

. . . Respondent

This Petition came up for final hearing on 23.06.2026 in the presence of Thiru.J.Prathaban, Advocate for the Petitioner and M.Kandasamy, Advocate for the Respondent and upon hearing the arguments of both sides, upon perusing the material case records, and having stood over for consideration till this date, this Court delivered the following:-

AWARD

This is an application filed by the petitioner U/s.2 A(2) of the Industrial Disputes Act, 1947 to set aside the termination order dated 07.05.2015 and to direct the respondent management to reinstate him with continuity of service, along with full back wages and all other attendant benefits.

1. Petition averments in-brief:-

The petitioner states that he joined in the service of the respondent company on 04.04.2010 as a Cutting Machine Operator Gr-III. The petitioner rendered unblemished record of service and based on that, his job was made permanent. Lastly the petitioner was working as an Injection Mould Operator and his last drawn salary was Rs.12,500/-.

The petitioner states that the respondent company situated at SIPCOT Industrial Estate, and it is a multinational company. The respondent company was not in the habit of following any fixed targets on production and the same was not recognized by any independent third party. The company fixed the targets that any human being cannot do in their capacity. Due to the above said targets the employees were forced to suffer mentally and will also be forced to commit suicide. Therefore, the petitioner and other affected workers joined together and formed a union in the name and style of Footwear Workers Union, which is a branch of registered labour union. The petitioner being the executive member of the union, questioned the unfair labour practice followed by the

respondent. Therefore, to retaliate, the respondent company developed inimical terms against the petitioner.

The petitioner further states that the respondent management issued a charge memo on 18.07.2014 for his involvement in the labour union activities. The petitioner alleges that, the management has no authority to issue a charge memo and an order of suspension, even after the petitioner submitted his explanation. The management was not satisfied with the explanation and conducted an unfair domestic enquiry. The Enquiry Officer has not conducted the proceedings in a fair manner and he involved himself in the facts which were not mentioned in the charge memo and thereby he recorded his wrongful and one-sided opinion about the petitioner. The charges mentioned in the charge memo were far from the truth and against the law. The Enquiry Officer did not permit him to cross examine the management witnesses, and the petitioner alleges that the proceedings of the domestic enquiry and the enquiry report dated 09.02.2015 will clearly prove the same.

The petitioner further states that the report submitted by the Enquiry Officer was totally against the Industrial Dispute pending before the Assistant Commissioner of Labour No.94/2014. The management did not obtain any permission under Section-33 of the Industrial Disputes Act. All the enquiry proceedings initiated against the petitioner are liable to be rejected. The petitioner requested the management to withdraw their show cause notice, but the management without considering the same terminated the petitioner from service on 07.05.2015. Further the respondent did not obtain any approval for his termination order. Therefore the termination

order becomes infructuous. Thus, the petitioner approached the Assistant Commissioner of Labour and raised an Industrial Dispute, but the management did not co-operate for an amicable settlement. Therefore, the Assistant Commissioner of Labour recorded a failure report.

The petitioner further alleges that, the management conducted the domestic enquiry without following the due process of law and without providing sufficient opportunity to the petitioner. Therefore, the petitioner approached this court by filing this petition and requests this court to set aside the order of termination and to reinstate him with continuity of service, full back wages and all other attendant benefits.

2. The Written Statement averments in-brief:-

The respondent filed his written statement and stated that the respondent company was registered under the provisions of Companies Act 1956, and having their factory at SIPCOT Industrial Park and engaged in manufacturing of footwear. The products manufactured by the respondent are largely exported to various countries and their products are highly reputed in the market.

The respondent further states that the petitioner was employed as a worker in TP Department and his last drawn wages were Rs.10,005/-. When he was employed in the company, during the working hours he was distributing union pamphlets which contained derogatory statements about the respondent company. Since this act amounts to a misconduct as per the standing orders of the respondent's management, the management issued a charge memo to the petitioner on 18.07.2014. Further considering the seriousness of the charges the petitioner was placed under suspension.

The petitioner submitted his explanation on 21.07.2014, but the management not satisfied with the explanation decided to conduct a domestic enquiry and accordingly appointed one Mr.Venkatesan as an Enquiry Officer. The Enquiry Officer commenced the enquiry proceedings on 29.07.2014, the petitioner also participated in the enquiry proceedings and denied the charges leveled against him. The petitioner also sought the assistance of one Mr.N.Venkatesan to assist him during the enquiry proceedings. The said Mr.N.Venkatesan was employed as supervisor of the company, therefore the management raised objection regarding his requirement for assistance and the same was accepted by the Enquiry Officer but at the same time the Enquiry Officer advised the petitioner to bring any other co-worker for his assistance in the enquiry.

The respondent further states that during the enquiry proceedings the petitioner deliberately refused to receive the documents and insisted the management to send all the documents by post. The petitioner in spite of sufficient opportunity granted to him, failed to cross examine the management witness, and he made several remarks against the Enquiry Officer to divert the enquiry proceedings. The petitioner though participated in the enquiry proceedings, failed to sign in the proceedings and further on one hearing, i.e., 27.12.2014, he blocked the exit of vehicles in front of the gate of Cheyyar Special Economy Developers. Thereby caused hardship to the companies situated inside the premises and he left the premises on the advise of security guards.

The respondent further states that the petitioner deliberately and intentionally failed to avail several opportunities granted to him, therefore the Enquiry Officer concluded his proceedings on 09.01.2015 and submitted his report on 09.02.2015 holding that the petitioner is guilty of the charges leveled against him. The management after receipt of the report sent a show cause notice to the petitioner along with the copy of the report. The petitioner submitted his reply on 26.04.2015 but the management not satisfied with his reply and taking into account his past records came to a conclusion that there were no extenuating circumstances to show any leniency to the petitioner, and consequently issued an order of termination. The petitioner later raised an Industrial Dispute before the Labour Officer, Vellore and the respondent filed a counter statement narrating the facts, but no amicable settlement was arrived. Hence, the conciliation proceedings ended in a failure. Now the petitioner has come forward with this present petition by making false allegations and averments. The respondent specifically denies each and every averments mentioned by the petitioner. The respondent states that they conducted the domestic enquiry in a fair and proper manner on the basis of principles of natural justice and therefore requests this court for dismissal of the same.

3. On the petitioner side, no witnesses were examined and no documents were marked. On the side of the respondent, one Mr.V.Mohanraj, worker of the respondent concern examined himself as MW1 and through him Ex-M1 and M2 were marked and subsequently Mr.D.Silambarasan, Senior Manager of the respondent concern examined himself as MW2 and through him Ex.M3 to M38 were marked.

4. Issue arise for consideration:-

Whether the petitioner is entitled for an order of reinstatement, continuity of service along with back wages and all other attendant benefits as claimed by him from the respondent or not?

5. Issue :-

It is the case of the petitioner that the petitioner is a permanent employee from 04.04.2010 and he was working as Cutting Machine Operator Gr-III and the petitioner was working in Injection Mould Operator. The respondent has leveled false charges against him and it is illegal. In the domestic enquiry he was not permitted to cross examine the management side witnesses. All the disciplinary proceedings initiated as against the petitioner is not fair. When dispute No.93/2014 is pending he cannot be terminated from service without getting approval. Hence, he has filed this petition to set aside the termination and reinstate him with full back wages and all other benefits.

It is the case of the respondent that on 05.07.2014 at 02.30 p.m., after the shift was completed in the company when the labourers had come outside the company the petitioner along with outside members have given notice that the labourers were treated like bonded labourers. The male labourers have been threatened, the women labourers have been subjected to sexual harassment and they have been given more work. All the allegations leveled as against the company is false. On 07.07.2014, he had participated in the condemnatory demonstration in front of the Cheyyar Tahsildar Office in the uniform and he had made derogatory statements against the company and the workers in the protest by the workers. The

petitioner has been placed under suspension on 10.07.2014, on receipt of charge sheet he has sent a reply. The management was not satisfied with the reply and Mr.Venkatesan was appointed as Enquiry Officer. Enquiry proceedings commenced on 29.07.2014. The petitioner sought assistance of Mr.N.Venkatesan, who was appointed as Supervisor in the company. The management raised objections and it was accepted by the Enquiry Officer. The Enquiry Officer advised to bring the co-worker for his assistance. The petitioner has not received the documents and has not cross examined the management witnesses. The petitioner participated in the enquiry proceedings, but did not sign. The Enquiry Officer submitted his finding on 09.01.2015. The management sent second show cause notice and the petitioner sent a reply and the management after considering the past records terminated the petitioner on 07.05.2015. The petitioner has raised dispute before the Labour Officer, Vellore and the conciliation proceedings failed. The petitioner is not connected with the dispute 94/2014 pending before the Labour Officer, Vellore. So the petition for obtaining prior approval under Section 33(2)(b) of the Industrial Disputes Act is not applicable. Hence the petitioner is not entitled the relief claimed by him.

The petitioner Radhakrishnan has not been examined as witness and he has not produced documents on his side. MW1 Thiru.Mohanraj has been working as Injection A3 Worker and on 10.07.2014 he has given a complaint to the Manager of the company stating that on 07.07.2014 in front of the Tahsildar Office at Cheyyar condemnatory demonstration was conducted against their company and Radhakrishnan participated in his uniform and he has made derogatory statements as against the management and was speaking in the mike against the management and spreading false

news about the management and hence this complaint has been lodged on 10.07.2014. MW1 could not have produced the documents to prove that he was working in the second shift on 07.07.2014. He has stated in the court also that Radhakrishnan was standing in front of the Tahsildar Office and was speaking against the management. He has stated before court that on the same day he had informed the management, but this fact that he has informed the management on the same day does not find place in the complaint Ex.M2. It is the specific case of the petitioner that he has not participated in the demonstration conducted as against the management. So, Mohanraj has spoken about the complaint which forms the basis for taking action as against the petitioner.

One another employee Vasanth has also lodged a complaint to the Manager stating that on 05.07.2014 he has completed the first shift and went outside the company at 02.15 p.m. he found the labourers have unlawfully assembled and Radhakrishnan was there and he has given the notice, he has received the same and he has enclosed the notice given by Radhakrishnan. His complaint has marked as Ex.M4. But this Vasanth has not been examined as witness before this court. MW2 states that he has resigned his job, but the resignation letter has not been furnished. The person to whom the complaint has been lodged was Shankar who was also not in the service. The notice dated 07.07.2014 has been produced and marked as Ex.M5. This notice has been given by Footwear Workers Union. The petitioner is said not to be a member of the union and MW2 admits that there no union in the company. MW2 states that the condemnatory demonstration done on 07.07.2014 in front of the Tahsildar Office was done by the petitioner. MW2 admits that no audio, video and photos have

been produced to prove the same. MW2 has not seen the condemnatory demonstration. MW2 denies that the dispute No.93/2014 was pending before the Labour Commissioner, when the petitioner was terminated from service. The petitioner ought to have produced the Dispute No.93/2014 particulars before the court to prove that the petitioner was a member of the Footwear Workers Union and dispute was pending before the Labour Commissioner, when the petitioner was terminated. Only if the petitioner proves that he is the member of the Footwear Workers Union with respect to which the dispute has been pending, he cannot be terminated before getting approval of the action taken by the employer. The notice given by Footwear Workers Union reveal that in Lotus Footwear, East Wind Footwear Limited Labourers are kept like bonded labourers and the labourers have been threatened, female labourers have been sexually harassed and they have been given abundant work and they are unable to work. This notice is marked as Ex.M5. It reveals that condemnatory demonstration has been conducted on 07.07.2014 at 10.00 a.m. by Footwear Workers Union. On 18.07.2014 charge memo has been issued to the petitioner which is marked as Ex.M6. He has been called upon to offer his explanation by notice dated 10.04.2015 which is marked as Ex.M6. The petitioner herein on 13.04.2015 has given a reply that he needs further 10 days time in addition to the 72 hours time which has been given to him to furnish reply. This letter is marked as Ex.M10. The petitioner has given a reply denying the charges which has been leveled as against him. Subsequently, show cause notice has been issued on 24.04.2015 which is marked as Ex.M12. For which also he has given a reply on 26.04.2015, the reply is marked as Ex.M13. Termination order has been given and he has been terminated from service on 09.05.2015. The termination order is

Ex.M14. The respondent management has addressed the Public Information Officer / Labour Officer - II under the Right to Information Act and the respondent had asked whether the petitioner Radhakrishnan is a party in dispute No.93/2014 and whether he is member of the association which has raised the dispute. The Public Information Officer has given a reply that the petitioner is not a member of the Labour Association which has raised the Dispute No.93/2014, the letter addressed by the Labour Officer-II as Public Information Officer to the Lotus Footwear Enterprises Limited is marked as Ex.M16, only if the dispute is pending the management has to get approval from the Industrial Tribunal.

In order to establish that the petitioner is in the habit of threatening, the management has relied upon the communication given by Kandasamy stating that Radhakrishnan had stopped the workers from reporting to the Senior Manager and Radhakrishnan asked the Senior Manager to come and redress the dispute and Radhakrishnan told that he will interfere other workmen's dispute and the Senior Manager was addressed without respect in the presence of 100 workmen. So the Senior Manager has addressed the HR (AGA), this letter is marked as Ex.M23. The same has been mentioned by the Cutting Manager Sugumar in his letter to the HR (VGM), this letter is marked as Ex.M24. He has been charge sheeted for stopping the co-worker Saranraj and asking why he was going to meet the Senior Manager and asked the Senior Manager to come to the spot and he has entered into conversation with Senior Manager Kandasamy in front of other employees in side the shop floor. Radhakrishnan has offered his explanation and he has been suspended pending enquiry and show cause notice has been given to him. Domestic enquiry has been conducted. The misconduct has been

proved and he has been demoted from Group - II to Group - III as punishment. These documents have been produced by the management, to prove the past conduct of the petitioner.

The learned counsel for the petitioner relied upon the decision in

R.P.Bidani Vs.Hindustan Lever Limited and Another.

13. A reading of the above decision and also the bare Section shows that the management is required to file an application under Section 33(2)(b) of the Act when an order of discharge or dismissal is passed for misconduct not connected with the pending dispute but in respect of a workman concerned. Such application is required to be filed before the authority which is dealing with the pending dispute, though the dispute is not connected with the misconduct resulting in order of dismissal or discharge. However, the pending dispute should be in respect of the concerned workman. Therefore, the authority or the court has to examine whether the workman is a workman concerned with such dispute pending before the said labour authority or court. If the answer is yes, then an application under Section 33(2)(b) of the Act will be maintainable before the said authority/court.

14. The expression a workman concerned with such dispute has been subject matter of judicial decisions by the Supreme Court and High Courts. The said expression not only includes a workman directly and actually concerned with a dispute but also includes all such workmen on whose behalf the dispute is raised as well as those who would be bound by the award which may be passed in the said dispute. It is well settled that apart from deeming exceptions industrial disputes cannot be raised for enforcing claims of individual workmen. What imparts to a dispute of a workman, character of an industrial dispute is that it affects the rights of the workmen as a class. An individual dispute can become an industrial dispute if espoused by his fellow workmen on the ground that they have committee of interest and direct and substantial interest in the employment, non employment

or conditions of work of the concerned workman (Refer Indian Cable Company Limited v. workmen reported in (1962) 1 LLJ 409 and Western India Match Co. Ltd. v. Workers Union. However, for the purpose of Page 1532 finding out whether a particular workman is covered by the expression a workman concerned with such dispute, the definition of the term industrial dispute as defined in Section 2(k) and the decision of the Supreme Court in the case of Indian Cable Company Limited (supra) is of little application and relevance. Section 33(2)(b) of the Act and the expression a workman concerned with such dispute shows that the legislature has recognized and accepted that behind the collective nature of industrial dispute, there are individual workmen who are concerned and whose rights are decided in a dispute which is already pending consideration and these workmen are given protection lest their services are terminated vindictively, mala fide or due to unfair labour practice. The said expression not only includes the workmen whose name is actually mentioned in the reference but all those who may be affected by the said adjudication. The term concerned workmen should not be given a narrow construction and includes all workmen on whose behalf the dispute has been raised as well as those workmen who will be bound by the award. (Refer New India Motors Private Limited Vs. K.T. Morris and Upper Ganges Valley Electricity Supply Company Limited Vs. G.S. Srivastava reported in (1963) 1 LLJ 237 SC).

15. The Bombay High Court in New Jehangir Vakil Mills Limited v. N. L. Vyas reported in 1958 (2) LLJ 573 had the occasion to examine the said expression and has drawn a distinction between a concerned workman and an interested workman. A workman may have interest in a dispute for various reasons, including the fact that he supports a fellow workman but this is not sufficient to make the workman a concerned workman. The word concerned connotes a kind of specific, direct interest in any legal proceedings, to which he may not be individually a party, when a result or adjudication is capable of directly affecting him favorably or

prejudicially according to the result. A workman who is likely to benefit or adversely affected by any decision will be a workman concerned with such dispute and the management in such cases must move an application under Section 33(2)(b) of the Act.

This decision does not apply to the facts of the case, because only if the petitioner proves that he is one of the worker whose terms of employment or service condition is bound by or will be effected by the final outcome of the dispute this decision is applicable. The petitioner is not a direct litigant of the dispute, he is not a member of the union which raised the dispute. If he is a non union member it has to be a general dispute, if the final tribunal order will change their wages, benefits or working rules. The petitioner has pleaded that Dispute No.93/2014 is pending between the respondent and Footwear Workers Union, MW2 during cross examination has made it clear that no settlement was reached before the Assistant Commissioner as the conciliation failed, it was sent to the Government, the petitioner has failed to prove that the dispute was general dispute that would change his wages, benefits or working rules. The petitioner should have proved that the Dispute No.93/2014 is not an individual dismissal case, but it is general demand for wages, bonus, increment, dearness allowance or holiday policies which effect the entire work force. So it is not necessary for the respondent to obtain approval of the termination under Section 33(2) of the Industrial Disputes Act. Hence, the termination is valid. Hence, the petitioner is not entitled to reinstatement with continuity of service, back wages along with other attendant benefits.

Issue is answered accordingly.

In the result, this petition is dismissed and no order as to costs.

Dictated to the Steno-Typist, typed directly in the Computer, corrected and pronounced by me in the Open Court, on this the 30th day of June, 2026.

**Presiding Officer,
Principal Labour Court,
Vellore.**

Annexure:-

1. List of Witnesses examined on the side of the Petitioner:-

- Nil -

2. List of Exhibits marked on the side of the Petitioner:-

- Nil -

3. List of Witnesses examined on the side of the Respondent:-

MW1 – V.Mohanraj

MW2 – D.Silambarasan

4. List of Exhibits marked by the Respondent:-

Ex-M1	–	----	–	Copy of Identity Card of MW1 V.Mohanraj
Ex-M2	–	10.07.2014	–	Copy of Complaint Letter of Mr.Mohanraj
Ex-M3	–	----	–	Copy of Identity Card of MW2 Silambarasan
Ex-M4	–	08.07.2014	–	Copy of Complaint Letter of Mr.Vasanth
Ex-M5	–	----	–	Copy of Printed Notice against the management and issued by the petitioner
Ex-M6	–	18.07.2014	–	Copy of Charge Memo issued to petitioner
Ex-M7	–	----	–	Copy of Acknowledgment Card

Ex-M8	–	10.04.2015	–	Copy of 1 st Show Cause Notice issued to the Petitioner
Ex-M9	–	----	–	Copy of Acknowledgment Card
Ex-M10	–	13.04.2015	–	Copy of Letter submitted by petitioner requesting time to submit explanation
Ex-M11	–	23.04.2015	–	Copy of Explanation Letter of petitioner
Ex-M12	–	24.04.2015	–	Copy of 2 nd Show Cause Notice issued to the Petitioner
Ex-M13	–	26.04.2015	–	Copy of Explanation Letter of petitioner
Ex-M14	–	07.05.2015	–	Copy of Termination Order issued to the petitioner by the management
Ex-M15	–	08.05.2015	–	Copy of Acknowledgment Card
Ex-M16	–	20.02.2015	–	Copy of Letter issued to the management by the Public Information Officer, Labour Department
Ex-M17	–	07.02.2012	–	Copy of Complaint Letter of Mr.Sureshkumar
Ex-M18	–	07.02.2012	–	Copy of Charge Memo issued to petitioner
Ex-M19	–	11.02.2012	–	Copy of Explanation Letter of petitioner
Ex-M20	–	13.02.2012	–	Copy of Final Order issued to petitioner
Ex-M21	–	28.07.2012	–	Copy of Letter submitted by petitioner by admitting the charges
Ex-M22	–	30.07.2012	–	Copy of Warning Letter issued to petitioner
Ex-M23	–	17.11.2012	–	Copy of Complaint Letter of Mr.Kandasamy
Ex-M24	–	17.11.2012	–	Copy of Complaint Letter of Mr.Sugumar
Ex-M25	–	11.12.2012	–	Copy of Charge Memo issued to petitioner
Ex-M26	–	14.12.2012	–	Copy of Explanation Letter of petitioner
Ex-M27	–	25.12.2012	–	Copy of Temporary Suspension Order
Ex-M28	–	08.01.2013	–	Copy of Show Cause Notice issued to petitioner
Ex-M29	–	02.02.2013	–	Copy of Acknowledgment Card

Ex-M30 – 04.02.2013 – Copy of Petitioner’s Internal Enquiry Intimation

Ex-M31 – 06.02.2013 – Copy of Acknowledgment Card

Ex-M32 – ---- – Copy of Internal Enquiry Proceedings

Ex-M33 – 09.03.2013 – Copy of Enquiry Report

Ex-M34 – 25.03.2013 – Copy of 2nd Show Cause Notice issued to petitioner

Ex-M35 – ---- – Copy of Acknowledgment Card

Ex-M36 – 27.03.2013 – Copy of Explanation Letter submitted by petitioner by admitting the charges

Ex-M37 – 29.03.2013 – Copy of Final Order issued to petitioner

Ex-M38 – ---- – Copy of Acknowledgment Card

**Presiding Officer,
Principal Labour Court,
Vellore.**