

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

**PRESENT : Tmt.A.PACKIA JOTHI, M.L.,
Presiding Officer.**

Tuesday, the 28th day of July, 2026.

**I.D. No.15 of 2024
(CNR No.TNVL02-000066-2024)**

K.Anandan,
S/o. Kannaiyan,
No.1/152-A, Kollaimesu,
Kothamangalam Post,
K.V.Kuppam,
Katpadi Taluk,
Vellore District – 632 104.

. . . Petitioner

Versus

The Management,
Susee Polimers Private Limited,
Pillaiyar Kuppam,
Perumugai,
Vellore – 632 009.

. . . Respondent

This Petition came up for hearing on 22.07.2026 regarding preliminary issue, in the presence of Thiru.D.Christopher, the Advocate for the Petitioner and M.R.Ramanan and Associates 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:-

PRELIMINARY AWARD

The preliminary issue to be decided in this petition is whether the Domestic Enquiry conducted by the respondent against the petitioner is fair and proper by following the principles of natural justice or not?

1. **Petition averments in-brief:-**

The case of the petitioner is that the respondent concern is producing plastic bags by using the raw material of polymers, selling the same in India and other countries and earning good profits. Apart from this concern they are purchasing car spare parts and assembling the same in the name of Susee Motors. Further having wholesale business in silver jewels and running the CBSC school in the name of Vani Vidhyalaya. In the respondent concern approximately 120 workers are working, for the above workers the respondent deducted PF subscription amount for 71 workers including this petitioner.

The petitioner further states that he joined duty on 02.09.2008 in the respondent's company, but in his termination order his joining date has been wrongly mentioned as 02.05.2017. The petitioner was allotted with Driver work at the time of his joining and the respondent has not issued any proper written appointment order to the petitioner and other workers. In the respondent concern they followed 12 hours shift and not followed 8 hours shift. The petitioner was doing his first shift from 07.00 a.m. to 07.00 p.m. Some times he is continuously working in the second shift from 07.00 p.m. to 07.00 a.m. If he works for 4 hours in additional shift he has not been paid with excess pay. From the day of joining the petitioner worked efficiently without any fault. The respondent management with vengeance framed charges against the petitioner and conducted domestic enquiry.

The petitioner further states that including this petitioner and other workers they have worked for 6 years to 13 years continuously but the

respondent management sundaled by without issuing permanent job, without issuing the fixed minimum wages by the Government. Hence, 36 workers including this petitioner have joined together and formed a union in the name of “United Workers Federation”, a General Body Meeting was conducted on 14.02.2021 and resolution was passed for joining in the union. On 24.02.2021 workers joined in the union and the union informed the above facts to the respondent through letter dated 27.02.2021. By knowing this the respondent management with an intention to thwart the action of union without issuing any charge memo or any orders restricted from entering into the company premises the 9 workers including this petitioner on 27.02.2021. The above act of the respondent is against the labour act, hence the union sent a letter dated 29.03.2021 by mentioning the same and requested to allow the workers to enter into the company.

The petitioner further states that on 29.03.2021 the union raised an industrial dispute before the Conciliation Officer to reinstate the said 10 employees without any condition with continuity of service and full back wages. The respondent management sent letter dated 27.04.2021 through post to 6 workers including the petitioner stating that the petitioner was absent from January 2020 to February 2021 without any intimation and the same has been against the standing orders of the respondent management. The petitioner denied the charges and sent an explanation letter dated 06.05.2021 to the respondent. On receipt of explanation letter the respondent management again sent the same charge memo to the petitioner on 17.05.2021 and the petitioner again sent his explanation on 23.05.2021 by denying the charges levelled against him.

The petitioner further states that the respondent management decided and ordered to conduct an enquiry on 07.06.2021 and one Mr.D.Pushparaj has been appointed as Enquiry Officer and informed that the enquiry shall commence on 16.06.2021. The petitioner participated in the enquiry and requested to permit him to appoint an advocate on behalf of him, but the Enquiry Officer denied the same and acted in a biased manner and refused to cross-examine the petitioner and posted to 14.07.2021 for filing management side documents. On 14.07.2021 the respondent side documents were not marked with respondent witnesses and marked by the representative of respondent. While the petitioner objected the same, the Enquiry Officer has not recorded it and reported that his decision only was final. Then the enquiry was posted to 28.07.2021, but on the day of enquiry, enquiry was not conducted and on the same day the petitioner sent his objection letter through registered post to the Enquiry Officer and the respondent management.

The petitioner further states that the respondent management without considering the objection of the petitioner posted the enquiry on 28.07.2021, 11.08.2021, 25.08.2021, 15.09.2021, 29.09.2021, 13.10.2021, 20.10.2021 and 27.10.2021 without appearance of the petitioner. The petitioner requested to pay subsistence allowance to him and also to permit him to attend the enquiry for that he sent letters through registered post on 14.07.2021, 06.08.2021, 25.08.2021, 01.09.2021, 15.09.2021, 27.09.2021, 09.10.2021, 18.10.2021 and 23.10.2021, on receipt of the above letters the Enquiry Officer completed the enquiry as exparte. Then the respondent management issued second show cause notice along with enquiry report to

the petitioner on 10.12.2021 and asked the petitioner to submit his explanation in respect of why he should not be terminated from service. The petitioner submitted his explanation letter on 17.01.2022 and after receipt of the same the respondent management without perusing the explanation of the petitioner, on 17.02.2022 issued the termination order to the petitioner.

The petitioner further states that the respondent management filed an Approval Petition before the Assistant Commissioner of Labour, Vellore for issuing approval of termination of the petitioner, the petitioner filed his counter on 26.04.2022 and finally the Assistant Commissioner of Labour, Vellore issued approval order on 17.02.2022.

Therefore, this petitioner against the order of termination raised an Industrial Dispute before the Assistant Commissioner of Labour, Vellore and the respondent management filed their counter on 11.10.2022. Since no settlement was arrived he recorded a failure report on 15.11.2022. Later this petitioner to set aside the order of termination and to reinstate him along with continuity of service, back wages and all other benefits has filed this Industrial Dispute petition before this court. Pending the petition he requests this court to decide the fairness of the domestic enquiry as a preliminary issue.

2. The Gist of averments in the Written Statement:-

The respondent denied each and every averment stated in the petition. The respondent states that the petitioner has joined duty on 01.11.2013 as Driver and he was paid with

all statutory benefits. The petitioner was in unauthorized absence for 24 days during the period from January 2020 to February 2021, for that a show cause notice was issued on 27.04.2021. The petitioner submitted his explanation letter on 08.05.2021, the explanation was not satisfactory and he was issued with charge memo on 17.05.2021. The petitioner submitted his reply through post on 23.05.2021, which was also not satisfactory and so decided to conduct an enquiry and he was informed on 07.06.2021. The enquiry commenced on 16.06.2021, the petitioner participated in the enquiry and the Enquiry Officer posted for management witnesses on 07.07.2021. On that day 21 documents were filed by management and copies of the same were issued to the petitioner. Then the enquiry was posted to 14.07.2021, 28.07.2021, 11.08.2021, 25.08.2021, 01.09.2021 and 15.09.2021 the petitioner has not appeared for enquiry also. There was no response from the petitioner and thereby the Enquiry Officer closed the management side witness. Again on 29.09.2021, 13.10.2021, 20.10.2021 and 27.10.2021, the petitioner has not appeared for enquiry also. There was no response from the petitioner and the Enquiry Officer concluded the enquiry proceedings. The Enquiry Officer sent enquiry proceedings for all the dates to the petitioner. On 23.11.2021 the Enquiry Officer submitted his report by stating that the charges against the petitioner has been proved. The petitioner served with the enquiry report and second show cause notice dated 10.12.2021. The petitioner requested time as per letters dated 13.12.2021 and 29.12.2021 and time has been given as per the respondent's letter dated 04.01.2022 and time has been granted till 15.01.2022. The petitioner submitted his reply on 17.01.2022 without any documents in support of his explanation. The enquiry was adjourned for so many hearings as per request of the petitioner. Further during the conciliation

proceedings the petitioner has not stated any objection, so the conciliation officer issued approval to terminate the petitioner.

The Enquiry Officer commenced the proceedings in an impartial manner and provided opportunities to both sides. After conclusion of the enquiry he submitted the report mentioning that all the charges against him were proved. The Enquiry Officer provided fair and sufficient opportunities to the petitioner. Thus the domestic enquiry was conducted in a fair and proper manner and therefore the respondent requests to decide the preliminary issue in their favour.

3. Both side examined no witnesses. On the side of petitioner Ex-W1 to Ex-W33 were marked with consent. On the side of the respondent Ex.M1 to M4 were marked with consent.

4. Now the point for consideration is **‘Whether the Domestic Enquiry was conducted in a free and fair manner by following the principles of natural justice or not?’**

5. **Point:-**

The petitioner Anandan has been working as Driver and Susee Polimers Private Limited who is the employer has issued notice to the petitioner on 27.04.2021, that from January 2020 to February 2021 he has been unauthorizedly absent for 24 days, even though the respondent establishment has functioned for 318 days. He has been called upon to offer his explanation through Ex.W2 and on 08.05.2021 Anandan has replied that the management had come to know that he along with some

other employees joined in the "United Workers Federation" and without any notice there was unlawful lockout for him and 10 employees from 22.02.2021. They have raised a dispute on 29.03.2021 and so the management is wrecking vengeance by giving false charges and he has stated that without permission he has not taken leave as alleged by the management. His reply is marked as Ex.W3. The explanation was not accepted by the management and charges have been framed. It has been projected by the management that in February 2020 the employee has not worked for 2 days, in May 2020 the employee has not worked for 8 days, in July 2020 the employee has not worked for 5 days, in August 2020 the employee has not worked for 1 day, in September 2020 the employee has not worked for 1 day, in November 2020 the employee has not worked for 1 day, in December 2020 the employee has not worked for 1 day and in January 2021 he has not worked for 3 days, in February 2021 he has not worked for 2 days. The charges has marked as Ex.W4. The petitioner has sent a reply stating that he has availed leave after prior permission from the management. This reply is marked as Ex.W5. Then domestic enquiry has been ordered and Thiru.D.Pushparaj has been appointed as Enquiry Officer and the enquiry date was 16.06.2021 at 09.00 a.m. in Susee Polimers Private Limited, Pilliarkuppam. On 16.06.2021, Anandan has appeared and the enquiry was adjourned to 07.07.2021. On 07.07.2021 the petitioner was present, documents were filed by the management. On 14.07.2021 Anandan has sent a communication to the management and the Enquiry Officer demanding full wages from 24.02.2021 and permission to be represented by an advocate, this communication is marked as Ex.W10. On 20.07.2021 the management has given reply stating that his claim for wages is not maintainable and an advocate cannot be appointed to represent

him in the domestic enquiry. The communication is marked as Ex.W11. On 28.07.2021 Anandan has been absent for the enquiry and the enquiry has been adjourned to 11.08.2021, when he was absent and subsequently it has been adjourned to 25.08.2021. Again on 25.08.2021 the petitioner has sent a representation to the management demanding full wages from 24.02.2021 and permission to be represented by an advocate, this communication is marked as Ex.W15. Again on 01.09.2021 the petitioner has sent a representation to the management demanding full wages from 24.02.2021 and permission to be represented by an advocate, this communication is marked as Ex.W17. Enquiry has been conducted on 15.09.2021 and Anandan has not participated in the enquiry, the enquiry proceedings is Ex.W18. Again on 15.09.2021, 27.09.2021 the petitioner has sent a representation to the management demanding full wages from 24.02.2021 and permission to be represented by an advocate, this communications are marked as Ex.W19 and W20. Enquiry has been conducted on 29.09.2021 and Anandan has not participated in the enquiry, the enquiry proceedings is Ex.W21. Again on 09.10.2021 the petitioner has sent a representation to the management demanding full wages from 24.02.2021 and permission to be represented by an advocate, this communications are marked as Ex.W22. Enquiry has been conducted on 13.10.2021 and Anandan has not participated in the enquiry, the enquiry proceedings is Ex.W23. Enquiry has been conducted on 20.10.2021 and Anandan has not participated in the enquiry, the enquiry proceedings is Ex.W21. On 23.11.2021 the petitioner has been treated as exparte and order has been pronounced by the Enquiry Officer. The Enquiry Officer has found that the petitioner has been unauthorizedly absent. The enquiry report is marked as Ex.W26. Again show cause notice has been given by

the management on 10.12.2021, the notice is Ex.W27. He sent a reply stating that the enquiry proceedings have been conducted against the principles of natural justice and he is not able to fulfill the day to day requirements of his family and if he had been given subsistence allowance he would have participated in the domestic enquiry and in spite of several representations he has been set *ex parte* and order has been passed. He claims further time for submitting detailed reply which has been refused by the respondent by order dated 04.01.2022 in Ex.W30. But time was extended till 04.01.2022. The petitioner has sent an elaborate reply demanding full wages from 22.02.2021. This reply is Ex.W31. On 17.01.2022 the services of the petitioner have been terminated by the respondent under Ex.W32 and he has paid monetary benefits along with one month pay by way of cheque dated 17.02.2022 for Rs.49,140/- through Ex.W33.

The plight of his family was that there was no income for him and so he is not able to meet out the day to day expenses and so he was in a position to borrow money from friends and relatives and so he was not able to attend the enquiry. The petitioner did not have any wages during the lock out and he would have been seeking help from others to run his family and he cannot be expected to borrow money for attending the enquiry. The petitioner through his reply Ex.W10 states that he resides 20 K.Ms away from the venue where the enquiry was held and so the petitioner cannot borrow for his traveling expenses and attend the enquiry. The petitioner has been repeatedly sending notice to the respondent by disclosing his hardships. The domestic enquiry has been conducted 20 K.Ms away from his residence. The petitioner has repeatedly made demand for the salary.

The petitioner who has been affected has not been given reasonable opportunity to present his case, to know the material filed against him and to rebut the same.

The case of the respondent that without suspension of the petitioner the petitioner is not entitled to subsistence allowance does not hold good, because when there is a lock out the management should have placed the workmen under suspension and pay the subsistence allowance and proceed with the domestic enquiry or in the alternative not to place the worker under suspension pay the wages and proceed with the enquiry. The management has not opted for any of these modes. The workman who has financial burden on his shoulders cannot be asked to face the domestic enquiry with no penny in his pocket. The petitioner should have given money to meet out the situation which has not been done by the management.

The Hon'ble High Court of Madras in CDJ 2004 MHC 378 - R.Ravishankar and Others Vs. The Management of G.E.Power Controls India Pvt. Ltd. and Another in para 4, 5 and 6 held is as follows:

"4. Had there not been a "lock out" two courses would have been open to the management namely, to place the workmen under suspension, pay subsistence allowance and then proceed with the domestic enquiry or in the alternative not to place any workmen under suspension; pay wages and then proceed with the enquiry. Therefore, I have no doubt at all that the timing of the present action by the management against these workmen had given it an undue advantage over the

workmen. In other words, there is no need at this stage to place any workmen under suspension with a consequential payment of subsistence allowance. The management is also not under a legal duty to pay wages at this time. It is no doubt true, that the judgment of the Supreme Court referred to above deals with the case of non payment of subsistence allowance during the time of enquiry. But the very basic principle on which, the above judgment had come to be given is that the workmen cannot be put under a disadvantage and yet ask to face the domestic enquiry. A workman, earning no wages during "lock out" is definitely worse off than a workman, under suspension, without being paid subsistence allowance. A workman, during "lock out" would be running hither and thither and from pillar to post to keep the family wheel moving. Harships, which a workman suffers during such stages must be experienced to be believed. It is incapable of being measured by any yardstick. It is real human problem which should stir the court's conscience.

5. If the plight of the workmen is viewed in that angle, then there cannot be any doubt at all that the employer is having an upper hand vis-a-vis the workmen; having a specific advantage at this stage and not being under any legal obligation to protect the interest of the workmen, to allow him to continue with the Domestic Enquiry would be offending the principles of natural justice. The employer, in my opinion, cannot take advantage of the "lock out" to deny the workmen, the wages and yet proceed during the period of "lock out" against the workmen in a domestic enquiry. Entry 5(f) of V Schedule of Industrial Disputes Act would take in itself the conduct of domestic enquiry in utter disregard to the principles of natural justice or in undue haste as an unfair labour practice. Less said the better. As already, noted, the workmen are in a tremendous disadvantage as on date to face the domestic enquiry. It really does not matter, in my considered opinion that the place where the domestic enquiry is indicated to be

done is within the same town where the workers live and it is not far off from their residence, would be no answer when the principles of natural justice is interfered with. The courts approach should be pragmatic to a situation like this and it cannot be a silent spectator. It may be true that workers have also not done any credit to themselves by not even making a demand on the employer for payment of any allowance. But that itself would not eliminate them from putting forwards their claim at this stage. The fact that the domestic enquiry had reached the fag end of is not a ready answer to deny justice to the workmen in distress. For almost three months, the factory is under "lock out". As already stated, if it is not a "lock out" the workmen would have been placed under suspension, which means they would have earned 50% of their wages as subsistence allowance during the period of suspension. But that had not happened in this case. When the workmen are not under suspension, the sum to be paid to them cannot be treated, strictly speaking, as subsistence allowance. The sum to be paid cannot be treated as wages also, since admittedly the factory is under "lock out". Then what would be the solution? In my opinion, an adhoc payment commensurate to the situation would be a justifiable remedy to be given to each of the petitioners.

6. Taking into account that the factory is under "lock out" from 29.08.2003. I am of the opinion that an adhoc payment to each workmen equivalent to one month wages last drawn shall be an adequate remedy to the petitioners before they can be asked to participate in the Domestic Enquiry. Accordingly, the following order is passed.

The writ petition is allowed. The domestic enquiry held against each of the petitioners stands terminated on the following conditions.

- (a) The employer shall pay to each of the petitioners an adhoc sum equivalent to one month wages last drawn on or before 22.12.2003;
- (b) along with the payment, a charge memo shall be served on each of the petitioners;
- (c) on receipt of such charge memo, each of the petitioners shall have time till 31.12.2003 to submit their explanation;
- (d) if not satisfied with the explanation, the employer is at liberty to proceed with the enquiry.
- (e) in that event, examination and cross examination of witnesses on both sides shall be commenced and completed on before 31.04.2004.

This decision squarely applies to case on hand.

With regard to this claim for right to be represented by an advocate the **Hon'ble High Court of Madras in CDJ 2009 MHC 2477 - D.Mohamed Shereef Vs. The Enquiry Officer in para 12** held is as follows:

"12. Even in the letter dated 03.02.2009, addressed to the respondent, the petitioner has only stated that within a short space of time, it may not be possible for him to engage a co-employee for assistance in the proposed enquiry and therefore, has sought permission to engage an Advocate, Therefore, it is evident that it is not the case of the petitioner that he was enable to get assistance from a co-employee to assist him in the enquiry proceedings. Further, courts have held that in the absence of any service rule providing engagement of a legal practitioner, the employee cannot seek assistance as a matter of right. Law is well settled that an employee has no legal right to insist for engagement

of a legal practitioner in domestic / departmental enquiries, unless there are provisions in the rules/ standing orders / regulations, as the case may be."

This decision squarely applies to the case on hand and this court can only conclude that there has been violation of principles of natural justice. The petitioner has not been given a reasonable opportunity to present his case when the employee has pleaded that he has no means to participate in the domestic enquiry, the employer cannot simply ignore the plea and proceed ex parte. The employee has been left with no means to defend himself. The respondent has pleaded to let in evidence if this court decides that the domestic enquiry was against the principles of natural justice. So, the respondent is permitted to produce independent evidence to prove the unauthorized absence of the petitioner. The domestic enquiry has not been conducted in a fair manner according to the principles of natural justice and the findings given by the Domestic Enquiry Officer is not sustainable in law and hence is set aside.

Preliminary issue is answered accordingly.

For management side evidence call on 03.08.2026.

Dictated to the Steno-Typist, typed directly in the Computer, corrected and pronounced by me in the Open Court, on this the 28th day of July, 2026.

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

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

-NIL-

2. **List of Exhibits marked on the side of the Petitioner (With consent):-**

Ex-W1	-	-----	-	Copy of Muster Roll, Form 25, Attendance Register and Register of Leave with wage relating to the petitioner
Ex-W2	-	27.04.2021	-	Copy of Show Cause Notice issued to the petitioner by the respondent
Ex-W3	-	08.05.2021	-	Copy of explanation letter for Show Cause Notice submitted by the petitioner and wage abstract from January 200 to February 2021
Ex-W4	-	17.05.2021	-	Copy of Charge Memo issued to the petitioner by the respondent
Ex-W5	-	23.05.2021	-	Copy of explanation letter for charge memo submitted by the petitioner through registered post
Ex-W6	-	07.06.2021	-	Copy of enquiry intimation issued to the petitioner by the respondent through registered post
Ex-W7	-	16.06.2021	-	Copy of Internal Enquiry Proceedings
Ex-W8	-	07.07.2021	-	Copy of Internal Enquiry Proceedings
Ex-W9	-	14.07.2021	-	Copy of Internal Enquiry Proceedings
Ex-W10	-	14.07.2021	-	Copy of Letter submitted by the petitioner to the respondent management and the Enquiry Officer
Ex-W11	-	20.07.2021	-	Copy of Reply Letter issued by the respondent to the petitioner
Ex-W12	-	28.07.2021	-	Copy of Internal Enquiry Proceedings
Ex-W13	-	11.08.2021	-	Copy of Internal Enquiry Proceedings
Ex-W14	-	25.08.2021	-	Copy of Internal Enquiry Proceedings
Ex-W15	-	25.08.2021	-	Copy of letter submitted by the petitioner to the respondent management and the Enquiry Officer through registered post

- Ex-W16 – 01.09.2021 – Copy of letter submitted by the petitioner to the respondent management and the Enquiry Officer through registered post
- Ex-W17 – 01.09.2021 – Copy of Internal Enquiry Proceedings
- Ex-W18 – 15.09.2021 – Copy of Internal Enquiry Proceedings
- Ex-W19 – 15.09.2021 – Copy of letter submitted by the petitioner to the respondent management and the Enquiry Officer through registered post
- Ex-W20 – 27.09.2021 – Copy of letter submitted by the petitioner to the respondent management and the Enquiry Officer through registered post
- Ex-W21 – 29.09.2021 – Copy of Internal Enquiry Proceedings
- Ex-W22 – 09.10.2021 – Copy of letter submitted by the petitioner to the respondent management through registered post
- Ex-W23 – 13.10.2021 – Copy of Internal Enquiry Proceedings
- Ex-W24 – 20.10.2021 – Copy of Internal Enquiry Proceedings
- Ex-W25 – 23.10.2021 – Copy of letter submitted by the petitioner to the respondent management through registered post
- Ex-W26 – 23.11.2021 – Copy of Enquiry Report
- Ex-W27 – 10.12.2021 – Copy of Second show cause notice issued to the petitioner by the respondent management
- Ex-W28 – 13.12.2021 – Copy of letter requesting time to submit explanation for the charge memo submitted by the petitioner through registered post
- Ex-W29 – 29.12.2021 – Copy of letter requesting time to submit explanation for the charge memo submitted by the petitioner through registered post
- Ex-W30 – 04.01.2022 – Copy of letter issued by the respondent to the petitioner by extending time to submit explanation for the charge memo

- Ex-W31 – 17.01.2022 – Copy of explanation letter for Second Show Cause Notice submitted by the petitioner through registered post
- Ex-W32 – 17.02.2022 – Copy of Termination Order issued to the petitioner by the respondent
- Ex-W33 – 17.02.2022 – Copy of Cheque for Rs.46,040/- and statement of calculation issued by the respondent management to the petitioner

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

-NIL-

4. List of Exhibits marked on the side of the Respondent (With consent):-

- Ex-M1 – 06.08.2021 – Copy of registered Letter submitted by the Claimant with postal receipt
- Ex-M2 – 18.10.2021 – Copy of registered Letter submitted by the Claimant with postal receipt
- Ex-M3 – 27.10.2021 – Copy of Enquiry Proceedings
- Ex-M4 – 23.05.2022 – Copy of Order passed in Approval Petition by the Assistant Commissioner of Labour, Vellore in Na.Ka.No.139/2022

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