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WP No. 8215 of 2021



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 04-11-2025

Pronounced on 28.11.2025

CORAM

THE HONOURABLE MRS.JUSTICE N. MALA

WP No. 8215 of 2021

AND

WMP NO. 8768 OF 2021, WMP NO. 44529 OF 2025

1. The Management of
Caterpillar India Pvt Limited
Meinallathur, Thiruvallur District rep
by its Authorised Signatory.

Petitioner(s)

Vs

1. B.Palani
S/O. C.BABU No 2/187, Ambedkar
Street Adhigathur, Kadampatur
tiruvellore.

Respondent(s)

WMP No. 8768 of 2021

1. The Management of
Caterpillar India Pvt Limited
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Vs

1. B.Palani
S/O. C.BABU No 2/187, Ambedkar
Street Adhigathur, Kadampatur
tiruvellore.



Respondent(s)

WMP No. 44529 of 2025

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S/O. C.BABU No 2/187, Ambedkar
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Petitioner(s)

Vs

1. The Management of
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WP No. 8215 of 2021

PRAYER

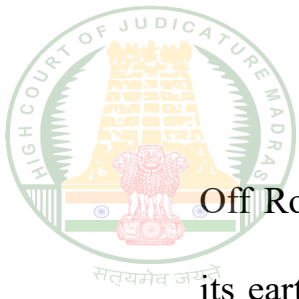
Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records of the II Additional labour court, Chennai in ID. No 434 of 2013 and quash its award dated 20.3.2019.

WP No. 8215 of 2021

For Petitioner	Mr.G.Anand Gopalan for M/s.T.S.Gopalan & Co.
For Respondent(s):	Mr.V.Prakash, Senior counsel for Mr.U.Manohar

ORDER

- (1) The writ petition is filed for a writ of certiorari to quash the Award dated 20.03.2019 of the Labour Court, viz., II Additional Labour Court, Chennai, in ID.No.434/2013.
- (2) The petitioner is a Multi National Company engaged in the manufacturing of



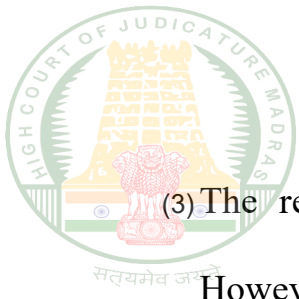
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Off Road Heavy Vehicles, such as Earthmovers etc. The petitioner exports its earth moving vehicles to various countries across the globe. In the year 2001, the petitioner acquired the Earth Moving Division of M/s.Hindustan Motors Limited [HML] located at Tiruvallur. The petitioner/Company not only took over the assets of the acquired Company, but also took over the employees who were part of the said Division with continuity of service. According to the petitioner, the respondent/workman was working as Casual Labourer in HML and at the time of take over of HML by the petitioner in the year 2001, the respondent was not part of the existing employees of HML. The petitioner further stated that the respondent was engaged as temporary employee on daily wages in the year 2004. The petitioner stated that as the vehicles manufactured by the petitioner were highly sophisticated high end models, the Factory's Certified Standing Orders provided for engagement of persons as Trainees. The period of training provided under the Certified Standing Orders was 3 years. The petitioner further stated that since its factory was highly mechanised and modernised industry, catering to international market, the petitioner employed only persons who successfully completed their three year training programme. The petitioner stated that in January, 2006, the petitioner recruited 33 persons as trainees. The petitioner stated that as the respondent was employed as a daily wager at that time, he



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expressed his willingness to undergo training and get absorbed. Therefore, the respondent along with 33 other persons was given orders for training for a period of three years. The petitioner further stated that the training commenced from 31.01.2006 and ended on 30.01.2009. When the training came to an end in January 2009, the training period of 33 persons including the respondent herein were extended and after assessment on 01.06.2010, 28 of the 33 trainees, were given regular appointment and for the rest of five persons including the respondent herein, the training period was further extended by six months. On 01.12.2010, four of the five trainees were given regular appointment, however, as the respondent's performance was found to be below average, his training period was further extended for giving him an opportunity to improve his performance. Since, even thereafter the respondent did not improve his performance, the petitioner was constrained to issue the Termination Order on 26.11.2010, terminating the services of the respondent. Challenging the Termination Order, the respondent filed a petition before the Conciliation Officer and on failure of conciliation, the matter was referred to the Labour Court. The petitioner stated that the Labour Court, on an erroneous view of the law and facts, allowed the dispute by the impugned Award and therefore, the petitioner was constrained to file the above writ petition for the aforesaid relief.



(3) The respondent/workman did not file any counter in the writ petition.

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However, in the Claim Petition before the Labour Court, the respondent stated that he was employed by the petitioner/Company in the year 2005 as a temporary employee and that, he rendered continuous service from 01.02.2005 and on 31.01.2006, he was appointed as a "Apprenticeship Trainee" for a period of three years. According to the respondent, though he was appointed as a Company trainee, he was not given any training at all. The respondent stated that, in fact, he did not need any training since he was working as Welder in the same factory since 1991 and continued the same work during the period of the alleged training. The respondent further stated that though he was not given any appointment order or wage slip for his temporary services in the year 2005, he was covered under the ESI Scheme where-under his entry into service was mentioned as 03.05.2004. The respondent stated that even though in the Termination order, it was mentioned that the respondent was dismissed for unauthorised absence and for unsatisfactory performance, in fact, the Termination Order was issued only because he lodged a complaint against the petitioner/Company, before the National Commission for SC/ST, New Delhi. The respondent stated that though he was designated as a Trainee, no training was ever imparted to him and that the designation "Trainee" was adopted to deprive him of security of



service and to evade the provisions of the Industrial Disputes Act, 1947. The

respondent further stated that as the Termination Order was punitive in nature and termination without enquiry was in violation of principles of natural justice, the same was illegal. The respondent, for the aforesaid reasons, filed the Claim Petition for reinstatement, with full back wages and continuity of service.

- (4) The learned counsel for the petitioner submitted that there was an error apparent on the face of the record in the Award of the Labour Court inasmuch as the Labour Court, contrary to the documents on record, found that the respondent was working continuously from the year 2000, right from the date of purchase of Factory in the year 2000, by the petitioner. The learned counsel further submitted that the Labour Court erred in concluding that the respondent joined the petitioner Company in the year 2000 ; overlooking his admission in the cross-examination that he joined as Causal Labourer in the year 2004 and as a Trainee in 2006, and hence, the finding of the Labour Court was perverse. The learned counsel further submitted that, the Labour Court ought to have held that the respondent was not a workman in view of his own admission that he was not a member of the Union. The learned counsel submitted that the Labour Court failed to note that the cessation of traineeship was due to the unsatisfactory performance of the



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respondent despite opportunities and hence, it ought not to have interfered

with the termination of traineeship. The learned counsel therefore prayed

that the writ petition be allowed.

(5) The learned Senior counsel for the respondent, on the other hand, submitted

that the Award of the Labour Court was based on the evidence on record and

therefore, the Labour Court, having appreciated the evidence in proper

perspective, the same did not call for any interference by this Court.

(6) Heard both sides and perused the materials placed on record.

(7) The facts are undisputed. The only issue is whether the Award of the Labour

Court is sustainable or not.

(8) The specific stand of the respondent before the Labour Court was that,

though he was designated as a trainee, he was in fact, not imparted any

structured training and that, he was discharging full time duties akin to a

regular workman. The Labour Court, while considering this contention,

relied on the judgment of this Court reported in **2005 [3] LLN 719**

[National Small Industries Corporation Limited V. The Presiding Officer, I

Additional Labour Court, Madras and Another], wherein it was held that

the designation given to an employee is not conclusive for determining the

nature of employment, and the real test lies in the nature of duties performed.

It was observed therein, that even if a person was engaged in regular and

perennial work without being imparted training, he cannot be treated as a



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trainee in the eye of law. In the present case, the Labour Court found that no evidence whatsoever was produced by the petitioner/Company to show the nature or content of the so-called training allegedly imparted to the respondent. On the contrary, the admitted position is that the respondent was working in the same Factory as a Welder even prior to the take over of the HML by the petitioner, and continued to perform the same work thereafter. Consequently, the Labour Court rightly held that the plea of the petitioner/Company that the respondent was a trainee was wholly unsubstantiated. This Court finds no infirmity in such finding.

- (9) The Labour Court further held that the Termination Order issued to the respondent was not valid, since the petitioner failed to substantiate the allegations contained therein, namely, unauthorised absence and unsatisfactory performance. The Labour Court again relied on the judgment of this Court reported in **2005 [3] LLN 719 [cited supra]**, for the principle that, in the absence of any material to show that the respondent's performance was poor, the punitive termination order could not be sustained. It was admitted by the petitioner/Company that 33 persons were initially appointed as trainees. Out of them 28 were regularized, while the training of five persons, was extended for six months. The respondent was among those five. Even among these five persons, four were thereafter regularized and



absorbed as permanent employees. However, the respondent alone was singled out and terminated on completion of the extended period. The

Labour Court noted this circumstance and observed that discrimination in the treatment of the similarly placed persons could not be ruled out, particularly when the respondent had earlier lodged a complaint before the National Commission for SC/ST, New Delhi.

(10) The Termination Order reads as follows:-

"OFFICE ORDER

You were engaged as a Company Trainee in the First Operation Plant area from 1st February, 2006. So far, during your training period, spanning over 4 years, you have unauthorisedly absented yourself on many occasions without any intimation either to your supervisor or department or to HS Department.

Further, your performance during the above period also has been assessed to be much below average. You were counselled by the undersigned on 9th March 2010 for improving your attendance and performance. Further, your training period was further extended for 6 months to provide you an opportunity to improve your performance.

Despite the fact that you have been counselled on number of occasions, no perceptible improvement is seen either in your attendance or performance. Hence, it has been decided to terminate your training immediately.

Accordingly, in line with Clause 8 of our Offer Letter dated 31st January 2006, your engagement as a trainee stands terminated as from the close of work today, the 26th November 2010."

(11) A bare reading of the Termination order clearly disclose punitive elements,



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as it refers to the alleged unauthorised absence and poor performance. Such punitive termination, without holding any domestic enquiry or issuing a charge memo, would amount to retrenchment under Section 2[oo] of the Industrial Disputes Act. Hence, compliance with Section 25F of the Act was necessary. Admittedly, such compliance was not made. Hence, for the aforesaid reasons also, the termination order cannot be sustained.

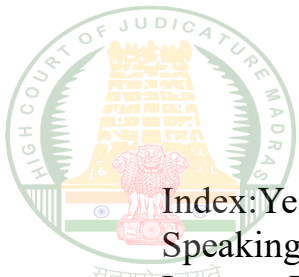
(12) This Court finds that the petitioner did not produce any evidence whatsoever to justify its stand that the termination was based on genuine performance issues or on habitual unauthorised absence. The Labour Court, therefore, rightly held that the reasons mentioned in the Termination Order remained wholly unproved. The Labour Court has exercised its jurisdiction properly, applied the correct legal principles of law and its findings do not suffer any perversity.

(13) In view of the above discussions, this Court finds no compelling reasons to interfere with the Award of the Labour Court.

(14) The writ petition is accordingly, **dismissed confirming the Award of the Labour Court dated 20.03.2019 made in ID.No.434/2013.** No costs. Consequently, connected miscellaneous petitions are closed.

28-11-2025

AP



Index: Yes/No

Speaking/Non-speaking order

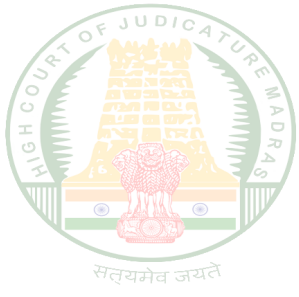
Internet: Yes

Neutral Citation: Yes/No

WMP No. 44529 of 2025

To

1. The Authorised Signatory
Management of
Caterpillar India Pvt Limited
Meinallathur, Thiruvallur District



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N.MALA J.

AP

**Order in
WP No. 8215 of 2021**

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