

Present Address: Aavin Illam vs G.Ulagaraj on 29 May, 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Special Original Jurisdiction)

RESERVED ON : 23.04.2025

PRONOUNCED ON : 29.05.2025

PRESENT:

THE HON'BLE DR. JUSTICE A.D. MARIA CLETE

W.P. Nos. 17339 and 18079 of 2020 &
W.P.Nos. 3108, 3110 and 12491 of 2021
and

W.M.P.Nos.21462 and 22462 of 2020, 3520, 3521
and 13264 of 2021 & 24571 and 24574 of 2021

The Management of Tamil Nadu Co-operative
Milk Producers Federation Limited,
Rep. by its Managing Director,
Madhavaram, Chennai – 600051.

Present Address: Aavin Illam,
No.3, Chamiers Road,
Nandanam, Chennai – 600035.

...Petitioners in all WPs

Vs.

1.G.Ulagaraj,
C/o. Tamil Nadu Dairy Development
Corporation Employees Union,
No.7-F, North Mada Street,
Thiruvotriyur, Chennai – 600 019.

...Respondent in WP

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2.N.Krishnamurthy,
C/o. Tamil Nadu Dairy Development
Corporation Employees Union,
No.7-F, North Mada Street,

Thiruvotriyur, Chennai – 600 019.

...Respondent in WP 18

3.M.Radhakrishnan,
C/o. Tamil Nadu Dairy Development
Corporation Employees Union,
No.7-F, North Mada Street,
Thiruvotriyur, Chennai – 600 019

...Respondent in WP

4.P.Sundararaj,
C/o. Tamil Nadu Dairy Development
Corporation Employees Union,
No.7-F, North Mada Street,
Thiruvotriyur, Chennai – 600 019

...Respondent in WP

5. C.Murthy,
C/o. Tamil Nadu Dairy Development
Corporation Employees Union,
No.7-F, North Mada Street,
Thiruvotriyur, Chennai – 600 019

...Respondent in WP 1

Prayer in W.P.No. 17339 of 2020

To issue appropriate writs, orders or directions and in particular issue the nature of certiorari after calling after calling for the records relating to the Order dt. 06.02.2020 passed by the Third Additional Labour Court, Chennai C.P.No.71 of 2017 and to quash the same as being illegal, without jurisdiction and contrary to the provision of the Industrial Disputes Act, 1947 and to such other orders or directions as may be deemed fit and proper and award

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costs.

Prayer in W.P.No. 18079 of 2020

To issue appropriate writs, orders or directions and in particular issue the nature of certiorari after calling after calling for the records relating to the Order dt. 06.02.2020 passed by the Third Additional Labour Court, Chennai C.P.No.30 of 2018 and to quash the same as being illegal, without jurisdiction and contrary to the provision of the Industrial Disputes Act, 1947 and to such other orders or directions as may be deemed fit and proper and award costs.

Prayer in W.P.No. 3108 of 2021

To issue appropriate writs, orders or directions and in particular issue

the nature of certiorari after calling after calling for the records rel
Order dt. 06.02.2020 passed by the Third Additional Labour Court, Chennai
C.P.No.72 of 2017 and to quash the same as being illegal, without jurisd
and contrary to the provision of the Industrial Disputes Act, 1947 and t
such other orders or directions as may be deemed fit and proper and awar
costs.

Prayer in W.P.No. 3110 of 2021

To issue appropriate writs, orders or directions and in particular issue
the nature of certiorari after calling after calling for the records rel
Order dt. 06.02.2020 passed by the Third Additional Labour Court, Chennai
C.P.No.31 of 2018 and to quash the same as being illegal, without jurisd

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and contrary to the provision of the Industrial Disputes Act, 1947 and t
such other orders or directions as may be deemed fit and proper and awar
costs.

Prayer in W.P.No. 12491 of 2021

To issue appropriate writs, orders or directions and in particular issue
the nature of certiorari after calling after calling for the records rel
Order dt. 06.02.2020 passed by the Third Additional Labour Court, Chennai
C.P.No.32 of 2018 and to quash the same as being illegal, without jurisd
and contrary to the provision of the Industrial Disputes Act, 1947 and t
such other orders or directions as may be deemed fit and proper and awar
costs.

Prayer in W.M.P.No. 21462 of 2020 (in W.P.No.17339 of 2020)

To grant interim stay of the operation of the order dt. 06.02.2020 in C.
of 2017 on the file of the Third Additional Labour Court, Chennai pendin
disposal of the above writ petition.

Prayer in W.M.P.No. 24571 of 2021 (in W.P.No.17339 of 2020)

To vacate the interim stay granted on 01.12.2020 in W.M.P.No. 21462 of 2
in W.P.No. 17339 of 2020 and pass such other order or direction as this
Hon'ble Court may deem fit and proper in the circumstances of the case.

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Prayer in W.M.P.No. 22462 of 2020 (in W.P.No.18079 of 2020)

To grant interim stay of the operation of the order dt. 06.02.2020 in C of 2018 on the file of the Third Additional Labour Court, Chennai pending disposal of the above writ petition.

Prayer in W.M.P.No. 24574 of 2021 (in W.P.No.18079 of 2020)

To vacate the interim stay granted on 01.12.2020 in W.M.P.No. 22462 of 2020 in W.P.No. 18079 of 2020 and pass such other order or direction as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Prayer in W.M.P.No. 3520 of 2021 (in W.P.No.3108 of 2021)

To grant interim stay of the operation of the order dt. 06.02.2020 in C of 2017 on the file of the Third Additional Labour Court, Chennai pending disposal of the above writ petition.

Prayer in W.M.P.No. 3521 of 2021 (in W.P.No.3110 of 2021)

To grant interim stay of the operation of the order dt. 06.02.2020 in C of 2018 on the file of the Third Additional Labour Court, Chennai pending disposal of the above writ petition.

Prayer in W.M.P.No. 13264 of 2021 (in W.P.No.12491 of 2021)

To grant interim stay of the operation of the order dt. 06.02.2020 in C of 2018 on the file of the Third Additional Labour Court, Chennai pending disposal of the above writ petition.

Appearance of Parties:

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For Petitioner: : M/s. S.Satishkumar and V.Govardhanan, Advocates
In all WPs For M/s.Row & Reddy

For Respondent : Mr.K.M.Ramesh, Senior Advocate
In all WPs For M/s.V/Subraman, S.Apunu and V.Sivaraman, Advocates

COMMON JUDGMENT

Heard.

2.The Petitioner, Tamil Nadu Co-operative Milk Producers Federation Limited, is the apex body representing all district-level Milk Producers Unions and markets its dairy products under the trademark “Aavin” (hereinafter referred to as “Aavin”). Aavin has filed the present batch of five writ petitions challenging two common orders passed by the III Additional Labour Court, Chennai, dated 06.02.2020. The first two writ petitions arise out of orders passed in C.P. Nos. 71 of 2017 and 30 of 2018, which were decided in favour of the contesting respondents (workmen). The remaining three writ petitions are directed against a common order passed in C.P. Nos. 72 of 2017, 31 of 2018, and 32 of 2018, whereby the Labour Court computed monetary benefits in favour of the respective workmen.

<https://www.mhc.tn.gov.in/judis> (Uploaded on: 29/05/2025 03:59:40 pm) W.P.No.3108 of 2021 & batch

3.The table below sets out, for ease of reference, the names of the contesting respondents, the corresponding writ petition numbers filed against them, the related Claim Petition (C.P.) numbers, and the amounts computed in their favour.

Sl.No.	Respondent's name	W.P.No.	C.P.
1.	G.Ulagaraj	17339/2020	71 /2017
2.	N.Krishnamurthy	18079/2020	30/2018
3.	M.Radhakrishnan	3108/2021	72/2017
4.	P.Sundararaj	3110/2021	31/2018
5.	C.Murthy	12491/2021	32/2018

4.The core issue arising in these five writ petitions lies within a narrow compass—namely, whether the claims made by the contesting respondents under Section 33C(2) of the Industrial Disputes Act, 1947, are maintainable, given that the respondent workmen were reinstated into service during the pendency of industrial disputes concerning their termination, pursuant to a settlement entered into with the management. Though the legal question <https://www.mhc.tn.gov.in/judis> (Uploaded on: 29/05/2025 03:59:40 pm) W.P.No.3108 of 2021 & batch appears straightforward, the protracted struggle undertaken by the workmen against the institutional might of Aavin, spanning over two decades, brings into focus the larger question regarding the efficacy of resolving disputes under the Industrial Disputes Act. It is therefore necessary to briefly recount the background circumstances that led to the filing of these claim petitions.

5.For participating in a one-day strike on 19.11.1980, as many as 1,100 workers were denied

employment by Aavin without the conduct of any enquiry.

Efforts made by the workers led by their union i.e. Tamil Nadu Dairy Development Corporation Employees Union, to secure their reinstatement through negotiations with the management proved unsuccessful. Consequently, the union raised an industrial dispute before the Labour Department of the Government. Aavin, however, maintained that the workers had abandoned their employment following the strike on 19.11.1980, and further asserted that a letter issued in March 1982 recorded the workers' prolonged absence, thereby amounting to abandonment of service. In order to refute this claim, the trade union addressed a letter dated 10.02.1982, categorically stating that all the <https://www.mhc.tn.gov.in/judis> (Uploaded on: 29/05/2025 03:59:40 pm) W.P.No.3108 of 2021 & batch workmen would report for duty on 15.02.1982.

6.The conciliation proceedings, which lingered for nearly two years, ultimately culminated in the Conciliation Officer issuing a failure report dated 16.11.1982. The Government declined to refer the dispute for adjudication under Section 10(1) of the Industrial Disputes Act, 1947, by issuing G.O. Ms. No. 371, Labour and Employment Department, dated 14.12.1983.

7.The Trade Union representing the dismissed workmen filed W.P. No. 4024 of 1983 before this Court, challenging the Government's refusal to refer the industrial dispute concerning the non-employment of 1,100 workmen for adjudication before the Industrial Tribunal. The writ petition was allowed by a learned Single Judge by order dated 19.12.1983. What was striking, however, was that not only did the employer, Aavin, claim to be "aggrieved" and file a Writ Appeal (W.A. No. 161 of 1984), but even the Labour Department, which had declined the reference in the first place, chose to file a separate Writ Appeal (W.A. No. 175 of 1984), as though it too had an interest adverse to the workmen.

<https://www.mhc.tn.gov.in/judis> (Uploaded on: 29/05/2025 03:59:40 pm) W.P.No.3108 of 2021 & batch

8.An issue of the dual role played by the then Minister, who simultaneously held charge of both the Dairy Development Department and the Labour Department, was also brought to the attention of the Division Bench while hearing the two writ appeals. The Division Bench, in its judgment, took note of this concern and observed as follows: — "It is also the case of the Union that the order of the Government declining reference is vitiated by malice in law as well as malice on facts in that the Federation acted on the dictates of the State Government and in particular the Minister in charge and as such the Government has not approached the matter in a fair and honest manner but sought to protect the interests of the Federation overlooking the interests of the workmen concerned"

9.Ultimately, the Division Bench, presided over by Justice G. Ramanujam, dismissed both writ appeals by its judgment in *The Tamil Nadu Co-operative Milk Producers Federation Limited v. The Tamil Nadu Dairy Development Corporation Employees Union*, reported in 1985 (2) LLJ 532, and held as follows:— "Thus, on a due consideration of the matter, we are of the view that the government has not taken into account the following relevant considerations while rejecting the reference. They are (i) whether the illegal strike can alone form the basis of non-employment and

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(ii) whether the abandonment of the employment pleaded by the Federation has prima facie been established and in any event whether the non-employment was justified on the facts of this case. As we have already stated, while considering the question of reference the Government's failure to take into consideration the relevant circumstances will vitiate the decision of the government. In this view of the matter, we are inclined to agree with the view taken by the learned single Judge. The writ appeals are therefore dismissed. There will, however, be no order as to costs."

10.It was only after a lapse of five years from the date of non-

employment that the State Government issued two separate orders of reference.

The first, concerning 901 workmen, was issued under G.O. Ms. No. 873, Labour and Employment Department, dated 30.04.1985, and the second, relating to 169 workmen, was issued under G.O. Ms. No. 1856, Labour and Employment Department, dated 25.09.1986. Both references were made for adjudication by the Industrial Tribunal, Tamil Nadu, and the names of the concerned workmen were annexed to the respective orders. Upon receipt of these Government Orders, the Industrial Tribunal registered the disputes as I.D. No. 31 of 1985 and I.D. No. 70 of 1986, respectively, and issued notice to Aavin.

11.After a protracted trial spanning nearly 13 years, the Industrial <https://www.mhc.tn.gov.in/judis> (Uploaded on: 29/05/2025 03:59:40 pm) W.P.No.3108 of 2021 & batch Tribunal, by its Award dated 17.02.1997, held that the workmen, having been dismissed without the conduct of any enquiry and in violation of the principles of natural justice, were entitled to reinstatement. The Tribunal rejected the plea advanced by the employer that compensation could be granted in lieu of reinstatement. While directing reinstatement with continuity of service, the Tribunal limited the award of back wages to 25%. In the concluding portion of its Award, the Tribunal issued the following directions:— "26. From the foregoing discussion, it is clear that the non- employment of the workmen by the management cannot be supported while considering the various reasons raised by the management. Therefore the non-employment of the workmen is not justified.

27. When we look into the period for which these workmen were unemployed ends of justice will be amply met if 25% of back wages are paid to these workmen from the date of reference till date of their actual reinstatement. The exceptions are stated above.

In the result, award passed in I.D.Nos. 31/1985 and 70/1986 holding that the non-employment of 901 and 169 workmen is not justified and that they are entitled for reinstatement, with continuity of service and 25% of the back wages from the respective dates of reference. No costs."

12.A perusal of the common Award dated 17.02.1997—which formed the foundation for the subsequent claim petitions for back wages—reveals that at no point did Aavin take the plea that, during the pendency of the conciliation <https://www.mhc.tn.gov.in/judis> (Uploaded on:

29/05/2025 03:59:40 pm) W.P.No.3108 of 2021 & batch and adjudication proceedings, the workmen had entered into any agreement relinquishing their rights and had rejoined duty. The consistent stand taken by Aavin was that the strike was illegal and that the workmen had ultimately abandoned their employment, thereby disentitling them from any relief. It was further contended that, having remained out of service for over a decade, the workmen were presumed to have secured alternative employment elsewhere.

Notably, even in the list of documents submitted by Aavin before the Tribunal, there was no material placed on record to evidence the existence of any settlement or agreement with those workmen who had allegedly resumed service.

13. During the pendency of the industrial dispute concerning nearly 1,070 workmen, certain efforts were made to facilitate the return of the workmen to service. These initiatives were undertaken by the then Minister for Animal Husbandry and Fisheries in February 1989, and subsequently in May and November 1998. All such efforts were aimed at securing individual settlements with the workmen under Section 18(1) of the Industrial Disputes Act, 1947, outside the purview of the ongoing adjudication. However, in the meantime, the Industrial Tribunal delivered a common Award dated 17.02.1997, granting the <https://www.mhc.tn.gov.in/judis> (Uploaded on: 29/05/2025 03:59:40 pm) W.P.No.3108 of 2021 & batch relief of reinstatement with 25% back wages to all the 1,070 workmen covered under the reference.

14. Instead of placing any purported settlement entered into with the workmen before the Industrial Tribunal and seeking its approval to exclude such workmen from the scope of the Award in the two pending references, Aavin chose to file a writ petition before this Court in W.P. No. 976 of 1998, challenging the common Award. Notably, the relief sought in the writ petition was both unusual and peculiar, and is extracted below:— To issue appropriate Writ, Order or Directions and in particular a writ in the nature of certiorari and after calling for the concerned records from the 2nd respondent Tribunal dated 17.2.97 in I.D.No. 31/85 and 70/86 published in the Gazette dated 30.4.97 filed and marked as exhibits and to modify the award in respect of 279 workers who have signed 18(1) settlement whose names are given in annexures to the typed set and others who enter into 18(1) settlement and in respect of other workers who have not signed the settlement and to quash the award and award cost and thus render justice.

15. A perusal of the affidavit filed in W.P. No. 976 of 1998 reveals that Aavin commenced the process of securing individual settlements under Section 18(1) of the Industrial Disputes Act only after the pronouncement of the <https://www.mhc.tn.gov.in/judis> (Uploaded on: 29/05/2025 03:59:40 pm) W.P.No.3108 of 2021 & batch common Award by the Tribunal, which had become binding on all parties concerned. These initiatives were undertaken in the backdrop of the Government's willingness to reinstate the workmen following the change in political regime. In paragraph 9 of the said affidavit in W.P. No. 976 of 1998, Aavin furnished month-wise details of the workmen who had purportedly entered into such settlements, which are extracted below:— “In the meantime based on the Government's direction we issued appointment orders on 18.2.97 to 240 workers out of the 427 employees whose addresses were readily available based on the management records and the addresses of some of the workmen were also given by the Trade Unions. In respect of others for

whom we do not have addresses we put up their names in the notice board. 279 employees responded to our offer. They signed settlements under Section 18(1) agreeing to be taken back as fresh entrants without backwages and other benefits. They joined duty based on the settlements and are working.

Feb.1997	-	8 workers signed 18(1) settlement
Mar.1997	-	247 workers signed 18(1) settlement
Apr.1997	-	9 workers signed 18(1) settlement
May 1997	-	11 workers signed 18(1) settlement
Jun.1997	-	2 workers signed 18(1) settlement
Jul.1997	-	2 workers signed 18(1) settlement

279"

16. In the meantime, aggrieved by the Tribunal's refusal to grant full back wages—limiting it to only 25%—the Tamil Nadu Dairy Development <https://www.mhc.tn.gov.in/judis> (Uploaded on: 29/05/2025 03:59:40 pm) W.P.No.3108 of 2021 & batch Corporation Employees Union also filed a writ petition, W.P. No. 13410 of 1998, seeking full back wages for all workmen covered under the reference. Both writ in W.P. No. 976 of 1998 and W.P. No. 13410 of 1998 were ultimately heard together. Following the Trade Union's writ petition, several interim applications in W.M.P.Nos. 1417/1998 & 9521 to 9529, 8316, 8317, 14838, 14839 & 13754/1998 in W.P. No. 976 of 1998 were filed by individual workmen—seeking impleadment, vacation of the stay order, payment of gratuity, and, in the case of those still in service, wages under Section 17-B of the Industrial Disputes Act, pending disposal of the writ petition. These interim applications were heard by a learned Single Judge (Justice K. Sampath), who passed a common order dated 22.12.1998. Paragraphs 24, 25, and 26 of the said order are reproduced below:— “24. It has already been pointed out that the first respondent union has been able to show prima facie that the settlement reached subsequent to the award is not fair or reasonable and in fact the workers have been deprived of revision of salary by joining as new entrants. The number of years they had put in earlier is lost. They have also deprived of leave accumulation, bonus, gratuity and other retirement benefits. What they gained is employment and notional fixation of continuity of service for the purpose of gratuity alone. The grievance of the first respondent is perfectly justified in my view.

25. In the circumstances, there is no escape from passing the usual orders under Sec.17(B) of the Industrial Disputes Act, 1947 on vacate stay petitions.

<https://www.mhc.tn.gov.in/judis> (Uploaded on: 29/05/2025 03:59:40 pm) W.P.No.3108 of 2021 & batch

26. 25% wages has been directed to be paid by the Tribunal. The management has also been directed to reinstate the workers. There will be a direction to the petitioner management to pay interest at 12% on the accumulated 25% wages once in six months to the workers of the first respondent union

who have opted not to accept the offer of the management to allow them to join as fresh entrants. There will be a further direction to pay the last drawn wages of the individual workers from the date of the writ petition. The stay petitions, vacate stay petitions and direction petitions are disposed of on the above terms.”

17.Eventually, both writ petitions—W.P. No. 976 of 1998 filed by Aavin and W.P. No. 13410 of 1998 filed by the Employees’ Union—were taken up for final hearing before a learned Single Judge. By a common judgment dated 16.04.2015, the learned Judge dismissed both writ petitions and upheld the common Award dated 17.02.1997. While rejecting the plea of the management seeking interference with the Award, the learned Judge made the following observations in paragraphs 12, 13, and 15:— “12.The fact that the employees union announced one day token strike and they resorted to strike on 19.11.1980 is not seriously disputed. Whether the absence of employees from 20.11.1980 is due to any act of abandonment of service by them or due to denial of employment to them by the Management is well considered and discussed by the second respondent/Industrial Tribunal. The second respondent/Industrial Tribunal arrived at conclusion that staying away from duty is different from abandonment and absence of the employee continuously for a period of 8 days amounting to <https://www.mhc.tn.gov.in/judis> (Uploaded on: 29/05/2025 03:59:40 pm) W.P.No.3108 of 2021 & batch abandonment of service and the management dismissing them from service ought to have followed the provisions of law (ie.) to take disciplinary action for their prolonged absence and thereafter to come to a conclusion and the dismissal of the employees for an act of abandonment of service is in violation of the procedure laid down under the Act and is in violation of the principles of natural justice and amounting to denial of reasonable opportunity and the non employment of the workmen is hence not justified and the Management is bound to reinstate them in service. The management has not made out any ground before this Court to interfere with such well considered award of the Industrial Tribunal.

13.Insofar as the modification of the award is concerned the same is sought for bringing in uniformity in service conditions to all the workers having regard to Section 18(1) settlement entered into by same and who were reinstated as fresh entrants. It is well settled that this court cannot in this writ petition gone into the fairness and reasonableness of the settlement. What can be decided herein is the locus standi of the individual of the workmen to enter into any settlement and validity of any settlement during adjudication of the Industrial Dispute raised by the trade union.

15.The learned counsel for the employee union has also brought it to the notice of this court about the order of the learned brother judge Hariparanthaman, J in WP.Nos.7325 and 7326 of 2006 wherein, the learned brother judge had an occasion to deal with the validity of Section 18(1) settlement entered into by the Management with the individual workmen. The writ petitions arose out of the order passed under Payment of Gratuity Act, thereby directing payment of gratuity for the past service by ignoring Section 18(1) individual settlement entered into by the respective employees to join service as fresh entrants. The learned brother judge after detailed discussion held against the validity and binding effect of such settlement on the trade union representing the employees in the Industrial Dispute. In view of the categorical findings so rendered by the Apex Court and our High Court this court feels that section 18(1) entered into by the management with the individual workmen will have no impact on the award passed by the industrial tribunal on merits raised by the

trade union and that cannot be a ground to <https://www.mhc.tn.gov.in/judis> (Uploaded on: 29/05/2025 03:59:40 pm) W.P.No.3108 of 2021 & batch modify the award passed by the Industrial Tribunal and the Management is hence disentitled to get any relief on that ground in the writ petition.” Similarly, the claim made by the Trade Union for full back wages was also rejected by the same judgment.

18.Although the order of the learned Single Judge in W.P. Nos. 976 of 1998 and 13410 of 1998 is dated 16.04.2015,Aavin has, in its affidavit, claimed to have filed a writ appeal only in October 2020, which remains unnumbered and is pending as W.A. SR No. 94070 of 2018. Owing to the delay—stated to be approximately three years—Aavin has also filed C.M.P. No. 11761 of 2018 seeking condonation. However, upon verification, the Registry has confirmed that even notices in the CMP have not yet been issued. If Aavin has shown no active interest in pursuing the matter for nearly a decade, it is inconceivable for anyone that the matter can be brought up by way of a writ appeal. It must, therefore, be reasonably concluded that the order of the learned Single Judge affirming the common Award has attained finality.

19.It is in this backdrop that the contesting respondents filed individual claim petitions under Section 33C(2) of the Industrial Disputes Act, 1947, <https://www.mhc.tn.gov.in/judis> (Uploaded on: 29/05/2025 03:59:40 pm) W.P.No.3108 of 2021 & batch before the III Additional Labour Court, Chennai, seeking computation of back wages in terms of the Award. The respondent in W.P. No. 17339 of 2020 filed C.P. No. 71 of 2017, claiming such back wages. In the counter statement filed by Aavin dated 31.07.2017, the stand taken was not that the respondent had resumed duty pursuant to a settlement under Section 18(1) of the Act and was, therefore, disentitled to relief. On the contrary, Aavin stated that the workman had refused to accept the settlement offered by the management and, as a result, was not reinstated. Relevant averments in paragraphs 10 and 13 of the counter are extracted below:— “10. The Petitioner who was one of the employee in I.D.No.31 of 1985 (S.No.558) refused to sign 18(1) settlement when he was offered employment in 1989 itself. Again, he refused to sign 18(1) settlement in 1997 but he demanded employment and continuity of service without signing 18(1) settlement contrary to the directions of the Government. The above facts were informed to the individual on 04.12.99, and he was asked to submit an affidavit that he is not gainfully employed elsewhere before 17.12.99.” “13. The Respondent Management submits that the Petitioner approached them stating that he is willing to join employment but without signing the Sec.18(1) Settlement which was contrary to the directions issued by the Government for taking the employee back into service.”

20.In the second writ petition, W.P. No. 18079 of 2020, arising out of <https://www.mhc.tn.gov.in/judis> (Uploaded on: 29/05/2025 03:59:40 pm) W.P.No.3108 of 2021 & batch C.P. No. 30 of 2018 filed by N. Krishnamurthy, Aavin raised contentions in the counter statement identical to those already extracted above. Consequently, the Labour Court consolidated both claim petitions and conducted a joint trial. Oral evidence was adduced by G. Ulagaraj, who was examined as PW1, and his testimony was adopted as evidence in support of the second claim petition filed by Krishnamurthy as well. On behalf of the respondents (workmen), 15 documents were produced and marked as Exhibits P1 to P15. On the side of Aavin, G. Sethuraman, Manager – Administration, Ambattur Dairy, was examined as MW1. Aavin filed five documents, which were

marked as Exhibits R1 to R5. However, during cross-examination, the said witness professed ignorance regarding all material facts of the case.

21. Upon analysing the evidence in both cases, the Labour Court held that the two respondents were entitled to 25% back wages from the date of reference up to the date of the Award, and full back wages from the date of the Award until the date of their superannuation. However, the Labour Court declined to grant leave benefits and bonus, as claimed by the respondents.

Although Aavin contended that both respondents were gainfully employed <https://www.mhc.tn.gov.in/judis> (Uploaded on: 29/05/2025 03:59:40 pm) W.P.No.3108 of 2021 & batch during the relevant period, the Labour Court rejected this assertion in the absence of any supporting evidence.

22. In the cases of the respondents in W.P. No. 3108 of 2021 (C.P. No. 72 of 2017), W.P. No. 3110 of 2021 (C.P. No. 31 of 2018), and W.P. No. 12491 of 2021 (C.P. No. 32 of 2018), Aavin contended that the workmen had entered into individual settlements under Section 18(1) of the Industrial Disputes Act, pursuant to the Award, and that such settlements precluded them from claiming any further benefits under the Award. Before the Labour Court, M. Radhakrishnan, respondent in W.P. No. 3108 of 2021, was examined as PW1, and ten documents were filed on his behalf, marked as Exhibits P1 to P10. As all three respondents were similarly placed, the Labour Court conducted a joint trial and directed that the testimony of PW1 would be treated as evidence applicable to all three cases.

23. On behalf of Aavin, one L. Sudha was examined as RW1, and five documents were filed in support of their case, marked as Exhibits R1 to R5.

However, since the management did not produce the cross-examination transcript of RW1 before this Court, the original records were summoned from <https://www.mhc.tn.gov.in/judis> (Uploaded on: 29/05/2025 03:59:40 pm) W.P.No.3108 of 2021 & batch the Labour Court for perusal. Upon examination of the records, it is evident that RW1, during her cross-examination, professed ignorance regarding several material facts. Nevertheless, she made the following admissions in her testimony: — “...Ex.P1 MFk;/ mjd;go bjhHpw;jPug; ;ghak; 901 kw;Wk; 169 bjhHpyhsu;fspd; gzpePf;fkhdJ epahakw;wJ vd;Wk; mtu;fs; 25 rjtPj gpdr; k;gsj;JlDk; gZpj; bjhlu;rr; pal[Dk; kPzL ; k; gZpaku;j;jg;gl ntz;Lk; vd;W cj;jutplL ; s;sJ vd;why; rupjhd;/ mjd;go ,e;j 1070 bjhHpyhsu;fSk; ,e;j jPu;gg; ha cj;jutpd;go kPzL ; k; gZp mku;j;jg;gl;lhufsh vd;why; ,y;iy/ mjd;gpwF18(1) brl;oy;bkz;l; Vw;gLj;jg;gl;l gpdd ; u;jhd; gZp tH';fg;gl;lJ vd;W brhy;fpnwd;/ me;j 18(1) brl;oy;bkz;l; go bjhHpyhsu;fis g[jpa gZpahfj;jhd; mtu;fis kPz;Lk; gZpaku;j;jpndhk; vd;whYk; jPug; ;ghaj;jpd; cj;jutpdg; o mtu;fis gZpaku;j;jtpy;iy vd;whYk; rupjhd;/ ePjpkd;w cj;jutpd;go 25 rjtPj gpdr;rk;gsk; kw;Wk; gZpbjhl;rr; pal[d; bjhHpyhsuf;is kPzL ; k; gZpaku;j;jtpy;iy vd;gij ehd; xg;gl;f; bfh;fpnwd; vd;why; rupjhd;/ me;j jPug; ;ghaj;jpd; cj;juit vjpu;jJ ; brd;id cau;ePjpkd;wj;jpny epu;thfj;jhy; nky;KiwaPL upl; kD vz;/976-1998 jhf;fy; bra;ag;gl;lJ vd;why; rupjhd;/ vd;dplk; fhl;lg;gLk; Ex.P7 d;go 16/04/2015y; cau;ePjpkd;wk; me;j upl; kDit js;Sgo bra;J bjhHpW; jPug; ;ghaj;jpd; cj;juit Kgikahf cWjp bra;jpUf;fpwhu;fs; vd;why; rupjhd;/ mnj cj;jutpy; gj;jp 15y; ,e;j 18(1) brl;oy;bkz;l; gw;wp cau;ePjpkd;wk; bjuptpj;Js;s fUj;J gw;wp vdf;F bjupahJ/ vd;dplk; fhl;lg;gLk; Ex.P6 cj;jutpdg; o epu;thfk; bjhHpyhsu;fSlid; jdpdg;gl;l Kiwapy; Vw;gLj;jpf; bfhz;l 18(1) brl;oy;bkz;l; bry;yhJ vd;W

brd;id cau;ePjpkd;wk; bjuptpj; pUf;fpwJ vd;W brhd;dhy; mJ gw;wp vdf;Fj; bjupatpy;iy/ kDjhuu; uhjhfpUc&;zDf;Fk; epu;thfj;jpwF ; k; Vw;gl;l 18(1) brl;oy;bkz;l; kw;Wk; mjpy;

<https://www.mhc.tn.gov.in/judis> (Uploaded on: 29/05/2025 03:59:40 pm) W.P.No.3108 of 2021 & batch brhy;yg;gl;Ls;s epge;jidfs; bry;yj;jf;jy;y vd;W brhd;dhy; mJ FwpjJ ; vdf;F fUj;J Twj; bjupatpy;iy/”

24.It is indeed disconcerting that Aavin has chosen to file writ petitions against both sets of orders passed by the Labour Court, advancing mutually inconsistent positions. In one set of cases, Aavin contended that the workmen were not entitled to any relief since they had refused to sign settlements under Section 18(1) of the Industrial Disputes Act, as directed by the Government.

Conversely, in the other set of cases, it was argued that the workmen, having signed settlements under Section 18(1), stood disentitled from claiming any benefits under the Award. Aavin also produced an order dated 19.03.1997 reinstating M. Radhakrishnan, the respondent in W.P. No. 3108 of 2021. This reinstatement order referred to a Government communication dated 29.01.1997 as Reference No. 1 and cited a settlement under Section 18(1) entered into between Aavin and the individual concerned, though no specific date of execution was mentioned. This document was marked as Ex.R1. The actual settlement deed, marked as Ex.R2, bears the date 19.03.1997; however, its contents refer to circumstances prevailing prior to the issuance of the Award.

Notably, the preamble to Ex.R2 refers to a notice dated 18.02.1997 displayed on the notice board—clearly indicating that the settlement was conceived and <https://www.mhc.tn.gov.in/judis> (Uploaded on: 29/05/2025 03:59:40 pm) W.P.No.3108 of 2021 & batch executed in anticipation of the Award.

25.It is pertinent to note that the common Award of the Industrial Tribunal is dated 17.02.1997 and was published in the Gazette only on 30.04.1997. In any case, under the applicable rules, free copies of the Award would have been made available to the parties at least a week after the date of the Award. It remains unclear how Aavin, even before having knowledge of the contents of the Award, could have constituted a screening committee. The preamble portion of the purported settlement reads as follows:— “Mfnt epWtdk; gzp mku;j;Jk; Miz vz;/1950-bjhHpy; cwt[? 1-97. ehs; 18/2/97 K:yKk; mwptpg;g[g; gyif K:yKk; gzp epakdk; Miz tH';f xU FGtpd; Kd;dhy; (!;fPupdp'; fkpl;o) M\$u; Mf mwpt[Wj;jpajd; ngupy; M\$u; Mdhu;/ rku;g;gpf;fg;gl;l Mtz';fisf; bfhz;L ,tUf;F og;ngghy; tpepnahf!;juhfxl;L bkhj;j rk;gsk; U:gha; Mapuj;jpw;F ntiy mspf;f epWtdk; Kot[bra;jJ/ nkYk; muR Mizapd;go xg;ge;j mog;gilapy; g[jpa gzpahsu;fshf og;ngghy; tpepnahf!;juhfxl; ntiy mspgg; jw;F ,U jug;gpdUk; fPH;ff; z;l epge;jidfspd;go jfuhiw Kiwahft[k; KGikahdjhft[k; ,Wjpahft[k; jPuj; ;Jf; bfhs;tbjd;W Kot[bra;ag;gl;lJ/”

26.A reading of paragraph 4 of the purported settlement clearly indicates that the terms were formulated without any reference to, or knowledge of, the contents of the Award and, in fact, prior to its pronouncement. This reinforces the inference that the settlement was conceived independently of the Award.

<https://www.mhc.tn.gov.in/judis> (Uploaded on: 29/05/2025 03:59:40 pm) W.P.No.3108 of 2021 & batch Accordingly, paragraph 4 is extracted below:— “,t;btHg;ge;jk; KGikahdJ vd;Wk; kw;Wk; ,WjpahdJ vd;Wk; ,jd; K:yk; xg;g[f; bfhs;fpwhu;/ nkYk; epYitapYs;s bjhHpW;jfuhW vz;/31-85 kw;Wk; 70-86?y; jPu;gg; haj;jhy; tH';fg;gLk; jPu;g;g[vt;thwhf ,Ug;gpDk; epu;thfj;jpw;nfh my;yJ jdf;nfh rhjfkfh my;yJ ghjfkfh ,Ue;jhYk; ,e;j xg;ge;jnk jd;id fl;Lg;gLj;Jk; vd;Wk; jPu;g;ghaj;jhy; tH';fg;gLk; ve;j xU cupikiaa[k; nfhukhl;nld; vd;Wk; jPu;g;ghaj;jpd; jPu;g;ig mKy;gLj;j nfhupnah my;yJ nky;KiwaPnlh bra;tjpy;iy vd;Wk; ,t;btHg;ge;jj;jpd;go kl;Lnk ele;J bfhs;tJ vd;Wk; xg;g[fb; fhs;fpwhu;/'”

27.Aavin appeared to be conscious of the legal infirmities surrounding the so-called settlement and, anticipating that it might not withstand judicial scrutiny, sought to obtain the approval of the Industrial Tribunal. Accordingly, a draft memo intended to be filed before the Tribunal was enclosed along with the purported settlement (Ex.R2). The contents of the said memo are as follows:

brd;id bjhHpW; jPu;ghak; Kd;

bjh/j/vz;/31-85 kw;Wk;

bjh/j/vz;/70-86 jkpH;ehL ghy;ts epWtd CHpau;fs;

r';fk;. brd;id	///thjp
jkpH;ehL ghy; cw;gj;jpahsu;fs;	
Tl;Lwt[,izak;	///gpujpthjp

epu;thfKk; kw;Wk; bjhHpyhsp jpU/K/,uhjhfpUc&z; tpLj;Js;s Tl;L nfhupf;if kD/
j P u g ; ; g h a j ; j p w F ; t p l g ; g l ; L s ; s t u p i r v z ; / 5 9 7 0 - 8 6
??

<https://www.mhc.tn.gov.in/judis> (Uploaded on: 29/05/2025 03:59:40 pm) W.P.No.3108 of 2021 & batch jPu;g;hak; Kd; tpLg;gl;Ls;s tupir vz;/59 70-86 fz;Ls;s jpU/K/,uhjh fpUc&z; vd;w bjhHpyhsp kw;Wk; epu;thfKk; nru;e;J bjhHpy; jfuhW rl;lk; gpupt[18(1)d; fPH;bra;J bfhz;l xg;ge;jj;ij xg;g[f; bfhs;fpwhu;fs;/ ,t;btHg;ge;j efij ,j;Jld; ,izf;fg;gl;Ls;sJ/ ,tiu bghUj;jtiuapy; epu;thfj;jpw;Fk; ,j;bjhHpyhspf;Fk; Vw;gl;Ls;s ,e;j xg;ge;j mog;gilapy; jPu;g;g[tH';Fk;go eput; hfKk; bjhHpyhspa[k; jPu;g; haj;ij gzpt[lld;

ntz;of;bfhs;fpwhu;fs;/

brd;id ,j;njjpapy;

Sd/-
bjhHpyhsp
The Tamil Nadu Co-operative
Milk Producers Federation Limited
Madhavaram, Madras 600051”.

Sd/-
Managing Dire

28. The aforementioned joint memo was, however, never filed before the Industrial Tribunal, and no approval was ever obtained for the purported settlement. It is also relevant to note that while confirming the Award, the learned Judge (K.B.K. Vasuki, J.) made reference to an earlier decision involving Aavin workers who had claimed gratuity on the basis of continuity of service. In that case, when the claim was resisted on the ground of a settlement under Section 18(1), the matter was heard by Justice D. Hariparanthaman, who had occasion to examine the legal effect of such a settlement in his judgment in W.P. Nos. 7325 and 7326 of 2006, reported in 2015 (1) LLJ 589 (Mad).

<https://www.mhc.tn.gov.in/judis> (Uploaded on: 29/05/2025 03:59:40 pm) W.P.No.3108 of 2021 & batch Paragraphs 13 to 19 and 25 of that judgment are particularly relevant and are reproduced below:— “13. At the outset, I make it clear that this Court cannot go into the question as to the fairness and reasonableness of a settlement under Section 18(1) of the I.D.Act, while exercising writ jurisdiction under Article 226 of the Constitution. It is for the Industrial Tribunal to record a finding on the fairness and reasonableness of a settlement, if one of the parties to the industrial dispute seeks the Tribunal to pass Award in terms of the settlement under Section 18(1) of the I.D.Act. When such a finding is questioned before this Court by way of a writ petition, then only this Court could examine the correctness or otherwise of the findings of the Tribunal.

Award binds the parties :

14. The learned counsel for the petitioner/management, as stated above, has vehemently contended that if the 18(1) settlements that were signed during 1997 were taken into account, the majority of the workmen entered into individual settlements and therefore, the award of the Tribunal became not enforceable, though those 1997 settlements were not placed before the Tribunal to test the fairness of those settlements, and the Award of the Tribunal shall be ignored. He took me through the written arguments filed before the Appellate Authority under the Payment of Gratuity Act, 1972, that is found at page No.88 of the typed set of papers, and has submitted that the award of the Tribunal cannot be enforceable in respect of these workmen, though the award was published in the Tamil Nadu Government Gazette. The paragraph (h) of the written arguments is extracted in this regard:

“(h) Therefore, the award of the Industrial Tribunal at the relevant time of entering into the settlement and joining of the 1 st respondent on 10.03.1997. The award did not become enforceable at all.” <https://www.mhc.tn.gov.in/judis> (Uploaded on: 29/05/2025 03:59:40 pm) W.P.No.3108 of 2021 & batch

15. In my considered view, since the industrial disputes in I.D.Nos.31 of 1985 and 70 of 1986 were adjudicated by the Industrial Tribunal by passing of the Award and the Award, being published in the Tamil Nadu Government Gazette under Section 17(1) of

the I.D. Act, the Award is binding the parties to the disputes as per Section 18(3) of the I.D.Act, and the individual settlement entered into between the dismissed workmen and the petitioner under Section 18(1) of the I.D.Act during 1997 and thereafter, would not have binding effect on those workmen, since those settlements were not placed before the Tribunal to consider the fairness of the same. It is wellsettled law.

16. Admittedly, in these cases, the individual 18(1) settlements were entered into during 1997 after the Government issued the letter dated 29.01.1997. Those settlements are admittedly not placed before the Tribunal. It is true that the Tribunal passed an award dated 17.02.1997 in I.D.Nos.31 of 1985 and 70 of 1986.

But the said award was published in the Tamil Nadu Government Gazette on 30.04.1997. Until the expiry of one month after the publication of the award, the Tribunal has jurisdiction on the industrial disputes in I.D.Nos.31 of 1985 and 70 of 1986. Hence, the petitioner could have filed an application before the Tribunal to reopen the case seeking modification of the award insofar as the persons, who signed the settlement are concerned for giving necessary seal of approval to those settlements. Having failed to do so, in my view, the petitioner management cannot rely on those settlements in respect of those persons, who signed those settlements, since those workmen as well as the petitioner management are bound by the Award of the Tribunal, as per Section 18(3)(a) of the I.D.Act.

17.The Tribunal admittedly granted continuity of service. Hence, the second respondent/workmen are entitled to gratuity by counting the past service.

18.At this juncture, it is relevant to take note of the very scheme of the I.D.Act. As per the original scheme of the I.D.Act, the Trade Union or collective body of workmen alone can raise an industrial dispute under Section 2(k) of the I.D.Act relating to <https://www.mhc.tn.gov.in/judis> (Uploaded on: 29/05/2025 03:59:40 pm) W.P.No.3108 of 2021 & batch various issues, such as, wages including allowances, working hours, dispute relating to shifts and other conditions of service, bonus and all types of punishment imposed on the workmen including the dispute relating to non-employment. An exception was carved out in 1965 by way of the insertion of Section 2A of the I.D.Act. By introducing Section 2A of the I.D.Act, the industrial dispute relating to non-employment of individual workman is “deemed” to be an industrial dispute, by permitting the individual workman, without the support of other workmen or the Trade Union, to agitate the non-employment before the conciliation machinery and later before the adjudicating authority. Even in the case of non-employment, if the industrial dispute was not raised under Section 2A of the I.D.Act by the individual workman and the industrial dispute relating to non- employment was taken up collectively by a Trade Union, the individual workman concerned with the dispute cannot enter into a settlement with the management thereby defeating the very adjudication, as the Trade Union alone took up the matter for adjudication before the Industrial Tribunal. Such a settlement entered into between the management and the individual workman shall be termed as illegal and shall be ignored, if the industrial dispute relating to nonemployment was collectively raised.

19. It is an admitted fact that the industrial dispute relating to the non-employment of large number of workmen was espoused by the Employees Union under Section 2(k) of the I.D. Act. The workmen were dismissed en masse for participating in the illegal strike organized by the Employees Union. The Employees Union filed W.P.No.860 of 1981 seeking a direction to the Government to refer the industrial dispute relating to the non-employment of large number of workmen. The Employees Union participated in the conciliation proceedings relating to the non-employment of workmen. When the Tamil Nadu Government passed an order under Section 10 of the I.D. Act declining to refer the industrial dispute relating to non-employment of workmen for adjudication, the Employees Union only approached this Court in W.P.No.4024 of 1983 challenging the order of the Government and seeking for a direction to the Government to refer the said <https://www.mhc.tn.gov.in/judis> (Uploaded on: 29/05/2025 03:59:40 pm) W.P.No.3108 of 2021 & batch industrial dispute to the Industrial Tribunal for adjudication. A learned Single Judge of this Court allowed the writ petition. When the writ petitioner management and the Government questioned the order of the learned Single Judge in W.A.Nos.161 of 1984 and 175 of 1984 respectively, the order of the learned Single Judge was defended by the Employees Union. Thereafter, the Government issued the orders referring the industrial dispute to the Industrial Tribunal and the Industrial Tribunal took it on file in I.D.No.31 of 1985 and 70 of 1986. The Employees Union pursued the cases by filing pleadings and letting in evidence and arguing the cases. In these circumstances, the management cannot enter into any individual settlements with the individual workman under Section 18(1) of the I.D. Act disregarding the Employees Union. If at all the petitioner management was interested in finding a solution to the industrial dispute in I.D.Nos.31 of 1985 and 70 of 1986 by negotiation and settlement, as per the scheme of the I.D. Act, the petitioner shall do it only with the Employees Union. The scheme of the Act provides only such a course. The course adopted by the management in entering into individual settlements with the individual workman under Section 18(1) of the I.D. Act is opposed to the very scheme of the I.D. Act and thus illegal.” “25. Admittedly, all the workmen, whose cases are referred for adjudication in I.D.Nos.31 of 1985 and 70 of 1986, are members of the Employees Union and they were admittedly dismissed from service for their participation in the illegal strike organised by the Employees Union. Hence, 34 any individual settlement with the dismissed workmen under Section 18(1) of the I.D. Act could not bring an end to the industrial dispute raised by the Employees Union under Section 2(k) of the I.D. Act and such settlements, on the face of it, cannot be acceptable, in view of the decisions of the Apex Court and this Court, referred to above.”

29. Aavin carried the matter in appeal before a Division Bench. The <https://www.mhc.tn.gov.in/judis> (Uploaded on: 29/05/2025 03:59:40 pm) W.P.No.3108 of 2021 & batch Division Bench, by a common judgment dated 27.07.2015, dismissed the writ appeals in Tamil Nadu Co-operative Milk Producers Federation Limited v.

Joint Commissioner of Labour, reported in 2015 (3) LLJ 708 (Mad) (DB).

The contentions advanced by Aavin were summarised by the Bench in paragraphs 3 to 6, and the ruling of the Court is set out in paragraph 10, which is extracted below:— “3. According to the Learned Counsel for the Appellant / Federation the Learned Single Judge should have allowed the Writ Petitions on the simple ground that the 2nd Respondent in both the Writ Appeals had entered

into an Individual Settlement dated 10.03.1997 under Section 18(1) of Industrial Dispute Act, 1947 agreeing to be employed as a 'Fresh Employment'. As such, the Workman was not entitled for Gratuity for the period prior to 10.03.1997.

4.It is represented on behalf of the Appellant that the Learned Single Judge had committed an error in holding that the reading of Section 18(1) Settlement under the Industrial Disputes Act discloses that the Workman had not given up their past service for the purpose of Gratuity and in fact, they have only back wages and attendance benefits.

5.The Learned Counsel for the Appellant urges before this Court that the Learned Single Judge should have considered the fact that the Authorities under the payment of Gratuity Act, 1972 have no jurisdiction to decide the validity and fairness of the individual settlements signed by the Workman under Section 18(1) of the Industrial Disputes Act, 1947.

6.The Learned Counsel for the Appellant forcefully submits that in 18(1) Settlement dated 10.03.1997, it was mentioned that the Workman (Daniel Thomas Petitioner in W.P.No.7326 of 2006) had clearly stated that there was no claim for back wages and other benefits prior to 1980 and hence the 'Gratuity' also comes under the purview of other benefits, and when that be the fact <https://www.mhc.tn.gov.in/judis> (Uploaded on: 29/05/2025 03:59:40 pm) W.P.No.3108 of 2021 & batch situation, the Learned Single Judge had not considered this aspect but dismissed the Writ Petitions by taking an erroneous view.” “10.It is not in dispute that all the workmen, whose cases were referred for determination in I.D.Nos.31 of 1985 and 70 of 1986 are members of the Employees Union for their participation in the illegal strike organised by the Union, they were dismissed from service. Therefore, any Individual Settlement arrived at may be dismissed workmen in terms of Section 18(1) of the Industrial Disputes Act could not bring an end to the Industrial Dispute raised by the Employees Union, in terms of Section 2(K) of the Industrial Disputes Act, 1947.”

30.Despite the existence of binding precedents secured by Aavin itself before this Court, learned counsel for the petitioner sought to assail the impugned orders of the Labour Court by relying on the following decisions.

These very judgments were also cited before the Labour Court but did not find favour. Nevertheless, they are briefly referred to below:—

1. Municipal Corporation of Delhi Vs. Ganesh Razak &Anr., 1995(1) SCC 235
2. State Bank of India Vs. Ram Chandra Dubey & Ors., 2001 (1) SCC 73
3. A.P.SRTC&Anr. Vs. S.Narsagoud, 2003 (2) SCC 212
4. State of Uttar Pradesh & Ors. Vs. Brijpal Singh, 2005 (8) SCC 58
5. D.Krishnan&Anr. Vs. Special Officer, Vellore Co- operative Sugar Mill &Anr., 2008 (7) SCC 22

31.All the aforementioned decisions reiterate the settled principle that for <https://www.mhc.tn.gov.in/judis> (Uploaded on: 29/05/2025 03:59:40 pm) W.P.No.3108 of 2021 & batch invoking jurisdiction under Section 33C(2) of the Industrial Disputes Act, there must exist a pre-determined or pre-existing right in favour of the workman, and that the Labour Court cannot adjudicate disputed questions of entitlement.

However, in the present case, the workmen are armed with a valid and enforceable Award in their favour, which has been affirmed by this Court.

Although Aavin claims to have filed an appeal, there is no progress even after the lapse of ten years. Moreover, the so-called settlements relied upon by Aavin to defeat the workmen's claims have already been held invalid—not only by two learned Judges of this Court—but also by a Division Bench.

32.Aavin cannot proceed on the assumption that it is bound to act solely at the behest of the Government in matters governed by industrial law. Once the Industrial Tribunal had rendered its Award, it was not open to Aavin to unilaterally enter into individual settlements with the workmen that compromised or diluted the terms of the Award, especially without obtaining the sanction or approval of the Tribunal or the Court. Notably, in its counter statement filed before the Labour Court, Aavin itself had contended that the two respondents had failed to report for duty pursuant to the offer extended under Government directions, and were therefore not entitled to any monetary <https://www.mhc.tn.gov.in/judis> (Uploaded on: 29/05/2025 03:59:40 pm) W.P.No.3108 of 2021 & batch relief under the Award.

33.This is not a case where the matter was dealt with in accordance with the provisions of Section 17-A(1), (2), or (3) of the Industrial Disputes Act, 1947, wherein the Government is empowered to either declare an award unworkable or postpone its date of implementation. In the present case, no such action was taken by the Government under these provisions. For clarity, Sections 17-A(1), (2), and (3) are reproduced below:— 17A. Commencement of the award- (1) An award (including an arbitration award) shall become enforceable on the expiry of thirty days from the date of its publication under section 17:

Provided that-

(a)if the appropriate Government is of opinion, in any case where the award has been given by a Labour Court or Tribunal in relation to an industrial dispute to which it is a party; or

(b)if the Central Government is of opinion, in any case where the award has been given by a National Tribunal, that it will be inexpedient on public grounds affecting national economy or social justice to give effect to the whole or any part of the award, the appropriate Government, or as the case may be, the Central Government may, by notification in the Official Gazette, declare that the award shall not become enforceable on the expiry of the said period of thirty days.

<https://www.mhc.tn.gov.in/judis> (Uploaded on: 29/05/2025 03:59:40 pm) W.P.No.3108 of 2021 & batch (2) Where any declaration has been made in relation to an award under the proviso to sub-section (1), the appropriate Government or the Central Government may, within ninety days from the date of publication of the award under section 17, make an order rejecting or modifying the award, and shall, on the first available opportunity, lay the award together with a copy of the order before the Legislature of the State, if the order has been made by a State Government, or before Parliament, if the order has been made by the Central Government.

(3) Where any award as rejected or modified by an order made under sub-section (2) is laid before the Legislature of a State or before Parliament, such award shall become enforceable on the expiry of fifteen days from the date on which it is so laid; and where no order under sub-section (2) is made in pursuance of a declaration under the proviso to sub-section (1), the award shall become enforceable on the expiry of the period of ninety days referred to in sub-section (2).”

34. Not only did the State Government refrain from invoking any provision to nullify or suspend the operation of the Award, but, in any event, such a power has been held to be unconstitutional by a Division Bench of this Court. In *Union of India v. Textile Technical Tradesmen Association*, Writ Appeal No. 56 of 2011, decided on 16.10.2014, the Division Bench categorically held as follows:— “The learned single Judge heard all the matters together and declared Sections 17-A(1), (2) and (3) of the Industrial Disputes Act, 1947 as unconstitutional and also declared that the notification issued by the Government of Puducherry dated <https://www.mhc.tn.gov.in/judis> (Uploaded on: 29/05/2025 03:59:40 pm) W.P.No.3108 of 2021 & batch 11.8.2001, published in the official gazette as illegal.

...the learned single Judge on consideration of the matter allowed the writ petitions and also granted declaratory relief as stated supra by following the judgments of the Andhra Pradesh High Court reported in (1997) 3 ALT 492 : CDJ 1997 APHC 752 (*Telugunadu Workcharged Employees State Federation, Nalgonda District Unit President v. Government of India*) where the very same provision viz., Section 17-A with sub- sections (1) to (4) was struck down on the ground of violation of basic structure of the constitution and also held that the Judgment of the Court cannot be nullified by the executive order as it affects the basic structure of the Constitution of India.

It is noteworthy to mention here that Section 17-A of the Industrial Disputes Act, 1947 was not in the statute when the Gazette Notification dated 11.8.2000 was issued stating that the award of the Special Industrial Tribunal as unenforceable. The said position viz., declaration of unconstitutionality of Section 17-A with sub-sections (1) to (4) of the Industrial Disputes Act, 1947 holds good even today as the Division Bench of the Andhra Pradesh High Court reiterated the said position in W.A.No.403 of 2004 dt.26.11.2004 and the said judgment has not been reversed or set aside by the Hon'ble Supreme Court. Hence the learned single Judge was perfectly justified in allowing the writ petition and no ground is made to interfere in the order of the learned single Judge.

In fine, the writ appeal is dismissed and the order of the learned single Judge made in W.P.No.15518 of 2001 dated 29.9.2010 is confirmed.” It is plausible that the authorities refrained from attempting

to nullify the Award, given that the binding judgment of the Division Bench stood as a clear legal impediment.

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35.This Court now draws the curtain on a protracted legal battle that has spanned an extraordinary 45 years—a duration far too long for any ordinary workman to endure while seeking justice against a powerful employer. Even successive changes in the political regime offered no meaningful relief. The initial regime rendered the statutory mechanism under the Industrial Disputes Act illusory. Not only were 1,100 workers summarily dismissed without the benefit of an enquiry, but they were also denied their fundamental right to have the dispute adjudicated by a competent Tribunal. It took them five years merely to secure an order of reference. Thereafter followed a 13-year ordeal before the Industrial Tribunal, which ultimately declared their non-employment invalid and awarded only partial back wages. The confirmation of that Award took an additional 18 years. When they finally approached the Labour Court through claim petitions in 2017 to realise the benefits of the Award, it took another three years for adjudication, and yet another five years for final confirmation by this Court. In the end, regardless of the political regime in power, no real solace was extended to the working class. They remained victims of a system where a powerful employer could dismiss them without due process and where the <https://www.mhc.tn.gov.in/judis> (Uploaded on: 29/05/2025 03:59:40 pm) W.P.No.3108 of 2021 & batch initial government, instead of intervening, refused to even refer the dispute.

36.Under the second regime, the situation further deteriorated. Despite the workmen having secured a favourable industrial adjudication, the regime sought to impose a unilateral settlement compelling them to relinquish the benefits of the Award in exchange for fresh employment—devoid of any monetary relief. Ultimately, it is this Court, in its role as the sentinel on the qui vive, that has intervened to redeem the workmen from prolonged injustice and to restore the rule of law.

37.In light of the foregoing discussion, all five writ petitions stand dismissed with costs. The petitioner-management is reminded that, notwithstanding its status as a government-controlled entity, its primary obligation lies in upholding the rule of law rather than subjecting workmen to protracted litigation spanning 45 years—thereby rendering the protective framework of labour legislation illusory. Accordingly, the petitioner-

management is directed to pay costs of Rs. 20,000/- in each of the writ petitions to the respective contesting respondents. The said costs shall be paid within a <https://www.mhc.tn.gov.in/judis> (Uploaded on: 29/05/2025 03:59:40 pm) W.P.No.3108 of 2021 & batch period of four weeks from the date of receipt of a copy of this order.

Consequently, all connected miscellaneous petitions stand dismissed.

29.05.2025 ay NCC : Yes / No Index : Yes / No Speaking Order / Non-speaking Order To The Presiding Officer, III Additional Labour Court, Chennai (with records)

<https://www.mhc.tn.gov.in/judis> (Uploaded on: 29/05/2025 03:59:40 pm) W.P.No.3108 of 2021 & batch DR. A.D. MARIA CLETE, J ay Pre-Delivery Judgment made in W.P. No. 17339 and 18079 of 2020 & W.P.No. 3108, 3110 and 12491 of 2021 and W.M.P.No.21462 and 22462 of 2020, 3520, 3521 and 13264 of 2021 & 24571 and 24574 of 2021 <https://www.mhc.tn.gov.in/judis> (Uploaded on: 29/05/2025 03:59:40 pm) W.P.No.3108 of 2021 & batch 29.05.2025 <https://www.mhc.tn.gov.in/judis> (Uploaded on: 29/05/2025 03:59:40 pm)