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IN THE HIGH COURT OF JUDICATURE AT MADRAS

W.A.Nos.2952 of 2023 etc., batch Reserved On: 14.08.2026	Delivered On:03.09.2026
W.A.Nos.2664 of 2026 etc., batch Reserved On: 18.08.2026	

CORAM

THE HONOURABLE DR JUSTICE G. JAYACHANDRAN
AND
THE HONOURABLE MR. JUSTICE E. MANOHARAN

W.A.Nos.2952, 2960, 2938, 2939, 2940, 2941, 2943, 2944, 2945, 2946, 2948, 2949, 2950, 2951, 2953 to 2959 & 2962 of 2023
and
W.A.Nos.2664, 2669, 2662, 2663, 2665, 2666, 2667, 2668, 2670, 2671, 2672 & 2673 of 2026
and
C.M.P.Nos.24435, 24433, 24451, 24453, 24456, 24459, 24460, 24463, 24471, 24472, 24474, 24475, 24478, 24479, 24484, 24488, 24499, 24555, 24439, 24442, 24447, 24448 of 2023, C.M.P.No.19696 of 2025

W.A.No.2952 of 2023

M/s. Jyothy Labs Limited,
Rep. by its Chairman cum Managing Director,
Ujala House Ram Krishna Mandir Road,
Kondivita, Andheri (East), Mumbai,
India - 400 059. … Appellant

/versus/

1. Appellate Authority Under The TNSE Act
Deputy Commissioner of Labour (MW),
Chennai-600 006.

2. Henkel Marketing India Limited.,
Represented by its Manager (Finance),
Nos.69 and 70, Southern Avenue,

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Industrial Estate, Ambattur,
Chennai - 600 058.

3. Henkel India Limited,
Represented by its Manager (Finance),
Nos.69 and 70, Southern Avenue, Industrial Estate,
Ambattur, Chennai - 600 058.

4. Henkal AG and CO KGaA
Rep. by Chairwoman of Supervisory Board,
Henkel AG and Co., KGaA Headquarters,
Henkelstrasses 67, 40589,
Dusswedorf, Germany.

5.Mr.V. Kumaravel
S/o. S. Vijayasekaran,
4/21A, Vasantham Apartments,
Venkatesh Nagar Main Road,
Virugambakkam,
Chennai – 600 092. … Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent Act, to issue Writ of Certiorari Mandamus, pleased to set aside the order passed in W.P.No.8325 of 2016, dated 19.07.2023.

W.A.No.2960 of 2023

M/s. Jyothy Labs Limited,
Represented by its Chairman-cum-Managing Director,
Ujala House, Ram Krishna Mandir Road,
Kondivita, Andheri (East) Mumbai,
India 400 059. … Appellant

/versus/

1. Appellate Authority Under The TNSE Act
Deputy Commissioner of Labour (MW),
Chennai-600 006.

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2. Henkel India Limited.,
Rep. by its Manager (Finance),
No.69 and 70, Southern Avenue,
Industrial Estate, Ambattur,
Chennai 600 058.

3. Henkal AG & Co KGaA,
Rep. by Chairwoman of Supervisory Board,
Henkel AG and Co., KGaA Headquarters,
Henkelstrasse 67, 40589,
Dusswedorf, Germany.

4. Mr. K.Prabu
S/o.T.T.Kalyanasundaram (Late),
No.51, Pillaiyar Kovil Street,
Sakthi Flats, Block C, Door No.G 2,
Jafferhanpet, Chennai 83. … Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent Act, to issue Writ of Certiorari Mandamus, to set aside the order passed in WP.No.8341 of 2016 dated 19.07.2023.

W.A.No.2938 of 2023

M/s.Jyothy Labs Limited,
Represented by its Chairman-cum-Managing Director,
Ujala House, Ram Krishna Mandir Road,
Kondivita, Andheri (East) Mumbai,
India 400 059. … Appellant

/versus/

1. Appellate Authority Under The TNSE Act
Deputy Commissioner of Labour (MW),
Chennai-600 006.

2. Henkel India Limited.,
Rep. by its Manager (Finance),
No.69 and 70, Southern Avenue,

https://www.mhc.tn.gov.in/judis (Uploaded on: 03/09/2026 07:04:15 pm)

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Industrial Estate,
Ambattur, Chennai 600 058.

3. Henkal AG and Co KGaA,
Rep. by Chairwoman of Supervisory Board,
Henkel AG and Co., KGaA Headquarters,
Henkelstrasses 67, 40589,
Dusswedorf, Germany.

4. Mr.R.A.Peter Alex,
S/o.Rayappan Arulsamy,
No.21, Kaveri Street, Sreet Nagar Colony,
Thirumullaivoil, Chennai 62. … Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent Act, to issue Writ of Certiorari, to set aside the order passed in W.P.No.8328 of 2016, dated 19.07.2023.

W.A.No.2939 of 2023

M/s.Jyothy Labs Limited,
Rep. by its Chairman cum Managing Director
Ujala House Ram Krishna Mandir Road,
Kondivita, Andheri (East) Mumbai,
India - 400 059. … Appellant

/versus/

1. Appellate Authority Under The TNSE Act
Deputy Commissioner of Labour (MW),
Chennai-600 006.

2. Henkel India Limited.,
Rep. by its Manager (Finance),
No.69 and 70, Southern Avenue,
Industrial Estate,
Ambattur, Chennai 600 058.

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3. Henkal AG and Co KGaA
Rep. by Chairwoman of Supervisory Board,
Henkel AG and Co., KGaA Headquarters,
Henkelstrasses 67, 40589,
Dusswedorf, Germany.

4. Mr.R.M.Seenivasagan,
S/o.Mr.Ramasamy,
New No.35, Old No.13, Flat No.18,
Selaiyar Street, First Floor,
Raja Annamalaipuram (PO),
Chennai-28. … Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent Act, to issue Writ of Certiorari, pleased to set aside the order passed in W.P.No.8331 of 2016, dated 19.07.2023.

W.A.No.2940 of 2023

M/s. Jyothy Labs Limited,
Represented by its Chairman-cum-Managing Director,
Ujala House, Ram Krishna Mandir Road,
Kondivita, Andheri (East) Mumbai,
India 400 059. … Appellant

/versus/

1. Appellate Authority Under The TNSE Act
Deputy Commissioner of Labour (MW),
Chennai-600 006.

2. Henkel Marketing India Limited.,
Represented by its Manager (Finance),
No.69 and 70, Southern Avenue,
Industrial Estate,
Ambattur, Chennai 600 058.

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3. Henkel India Limited,
Represented by its Manager (Finance),
Nos.69 and 70, Southern Avenue,
Industrial Estate, Ambattur,
Chennai 600 058.

4. Henkal AG and CO KGaA
Represented by Chairwoman of Supervisory Board,
Henkel AG and Co., KGaA Headquarters,
Henkelstrasses 67, 40589,
Dusswedorf, Germany.

5. Mr. N.Kirubhakaran
S/o. Mr. T. Nathumani, Mullai Aparments,
Flat No.10, New No.126/Old No.55, Pillaiyar Koil Street,
Jafferkhanpet, Chennai 83. … Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent Act, to issue Writ of Certiorari Mandamus, to set aside the order passed in W.P.No.8339 of 2016, dated 19-07-2023.

W.A.No.2941 of 2023

M/s. Jyothy Labs Limited,
Represented by its Chairman-cum-Managing Director
Ujala House Ram Krishna Mandir Road,
Kondivita, Andheri (East) Mumbai,
India - 400 059. … Appellant

/versus/

1. Appellate Authority Under The TNSE Act
Deputy Commissioner of Labour (MW),
Chennai-600 006.

2. Henkel Marketing India Ltd.,
Rep. by its Manager (Finance),
No.69 and 70, Southern Avenue,
Industrial Estate, Ambattur, Chennai 600 058.

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3. Henkel India Limited,
Rep. by its Manager (Finance),
Nos.69 and 70, Southern Avenue,
Industrial Estate, Ambattur,
Chennai 600 058.

4. Henkal AG and CO KGaA
Rep. by Chairwoman of Supervisory Board,
Henkel AG and Co., KGaA Headquarters,
Henkelstrasses 67, 40589,
Dusswedorf, Germany.

5. Mr. N.Dhanasekaran
S/o.R.Natarajan,
New No.35, Old No.23/2, Srinivasulu Street,
Ayanavaram, Chennai-600023. … Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent Act, to issue Writ of Certiorari, to set aside the order passed in W.P.No.8338 of 2016 dated 19.7.2023.

W.A.No.2943 of 2023

M/s. Jyothy Labs Limited,
Represented by its Chairman-cum-Managing Director
Ujala House, Ram Krishna Mandir Road,
Kondivita, Andheri (East) Mumbai,
India 400 059. … Appellant

/versus/

1. Appellate Authority Under The TNSE Act
Deputy Commissioner of Labour (MW),
Chennai-600 006.

2. Henkel India Limited
Rep. by its Manager (Finance),
Nos.69 and 70, Southern Avenue,
Industrial Estate, Ambattur,
Chennai 600 058.

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3. Henkal AG and Co KGaA,
Rep. by Chairwoman of Supervisory Board,
Henkel AG and Co., KGaA Headquarters,
Henkelstrasses 67, 40589,
Dusswedorf, Germany.

4.M.T.Kumaravelu,
S/o.Late M.R.Thandavarayan,
New No.84, Old No.33, Butchammal Street,
New Washermanpet,
Chennai 81. … Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent Act, to issue Writ of Certiorari, to set aside the order passed in W.P.No.8330 of 2016, dated 19.07.2023.

W.A.No. 2944 of 2023

M/s. Jyothy Labs Limited,
Rep. by its Chairman cum Managing Director
Ujala House, Ram Krishna Mandir Road,
Kondivita, Andheri (East) Mumbai,
India 400 059. … Appellant

/versus/

1. Appellate Authority Under The TNSE Act
Deputy Commissioner of Labour (MW),
Chennai-600 006.

2. Henkel India Limited,
Rep. by its Manager (Finance),
Nos.69 and 70, Southern Avenue,
Industrial Estate, Ambattur,
Chennai - 600 058.

3. Henkal AG & Co KGaA
Rep. by Chairwoman of Supervisory Board,
Henkel AG and Co., KGaA Headquarters,
Henkelstrasses 67, 40589,
Dusswedorf, Germany.

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4. Mr. M.T.Kumaravelu,
S/o. Late M.R. Thandavarayan,
New No.84, Old No.32, Butchammal Street,
New Washermanpet,
Chennai-600 081. … Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent Act, to issue Writ of Certiorari, to set aside the order passed in W.P.No.8329 of 2016, dated 19.07.2023.

W.A.No. 2945 of 2023

M/s.Jyothy Labs Limited,
Represented by its Chairman cum Managing Director
Ujala House Ram Krishna Mandir Road,
Kondivita, Andheri (East) Mumbai,
India 400 059. … Appellant

/versus/

1. Appellate Authority Under The TNSE Act
Deputy Commissioner of Labour (MW),
Chennai-600 006.

2. Henkel India Limited,
Rep. by its Manager (Finance),
Nos.69 and 70, Southern Avenue,
Industrial Estate, Ambattur,
Chennai 600 058.

3. Henkal AG and Co KgaA.,
Rep. by Chairwoman of Supervisory Board,
Henkel AG and Co., KGaA Headquarters,
Henkelstrasse 67, 40589,
Dusswedorf, Germany.

4.Mr.B.N.Sivaramakrishna Prasad,
S/o. Late Nathamuni,
No.1, 1st Main Road (West), Shenoy Nagar,
Chennai-600 030. … Respondents

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Prayer: Writ Appeal filed under Clause 15 of the Letters Patent Act, to issue Writ of Certiorari Mandamus, to set aside the order passed in W.P.No.30380 of 2018, dated 19.07.2023.

W.A.No.2946 of 2023

M/s. Jyothy Labs Limited,
Represented by its Chairman-cum-Managing Director
Ujala House, Ram Krishna Mandir Road,
Kondivita, Andheri (East) Mumbai,
India 400 059. … Appellant

/versus/

1. Appellate Authority Under The TNSE Act
Deputy Commissioner of Labour (MW),
Chennai-600 006.

2. Henkel India Limited,
Rep. by its Manager (Finance),
Nos.69 and 70, Southern Avenue,
Industrial Estate, Ambattur,
Chennai 600 058.

3. Henkal AG & Co KGaA,
Rep. by Chairwoman of Supervisory Board,
Henkel AG and Co., KGaA Headquarters,
Henkelstrasse 67, 40589, Dusswedorf, Germany.

4.Mr. P.Sampath
S/o.Late.Parthasarathy,
New No.56, Old No.12, South Beach Avenue,
1st Street, MRC Nagar,
Chennai-28. … Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent Act, to issue Writ of Certiorari, to set aside the order passed in W.P.No.8334 of 2016 dated 19.07.2023.

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W.A.No.2948 of 2023

M/s. Jyothy Labs Limited,
Represented by its Chairman-cum-Managing Director
Ujala House, Ram Krishna Mandir Road,
Kondivita, Andheri (East) Mumbai,
India 400 059. … Appellant

/versus/

1. Appellate Authority Under The TNSE Act
Deputy Commissioner of Labour (MVV),
Chennai-600 006.

2. Henkel Marketing India Ltd.,
Rep. by its Manager (Finance),
No.69 and 70, Southern Avenue,
Industrial Estate,
Ambattur, Chennai 600 058.

3. Henkel India Limited
Rep. by its Manager (Finance),
Nos.69 and 70, Southern Avenue,
Industrial Estate, Ambattur,
Chennai 600 058.

4. Henkal AG and Co KGaA,
Rep. by Chairwoman of Supervisory Board,
Henkel AG and Co., KGaA Headquarters,
Henkelstrasse 67, 40589,
Dusswedorf, Germany.

5.Mr. V.Kumaravel
S/o.S.Vijayasekaran,
No.4/21A, Vasantham Apartment,
Venkatesh Nagar Main Road,
Virugambakkam,
Chennai 92. … Respondents

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Prayer: Writ Appeal filed under Clause 15 of the Letters Patent Act, to issue Writ of Certiorari, to set aside the order passed in W.P.No.8326 of 2016 dated 19.07.2023.

W.P.No.2949 of 2023

M/s. Jyothy Labs Limited,
Represented by its Chairman-cum-Managing Director
Ujala House Ram Krishna Mandir Road,
Kondivita, Andheri (East) Mumbai,
India 400 059. … Appellant

/versus/

1. Appellate Authority Under The TNSE Act
Deputy Commissioner of Labour (MW),
Chennai-600 006.

2. Henkel Marketing India Ltd.,
Rep. by its Manager (Finance),
No.69 and 70, Southern Avenue,
Industrial Estate, Ambattur,
Chennai 600 058.

3. Henkel India Limited
Rep. by its Manager (Finance),
Nos.69 and 70, Southern Avenue,
Industrial Estate, Ambattur,
Chennai 600 058.

4. Henkal AG and CO KGaA
Rep. by Chairwoman of Supervisory Board,
Henkel AG and Co., KGaA Headquarters,
Henkelstrasse 67, 40589,
Dusswedorf, Germany.

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5.Mr. D.Vijayalayan
S/o.A.K. Damodaran,
New No.15 (Old No.8), First Cross Street,
Kennedy Square, Sembiam,
Chennai 11. … Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent Act, to issue Writ of Certiorari, to set aside the order passed in W.P.No.8324 of 2016 dated 19.07.2023.

W.A.No.2950 of 2023

M/s.Jyothy Labs Limited,
Represented by its Chairman-cum-Managing Director
Ujala House, Ram Krishna Mandir Road,
Kondivita, Andheri (East) Mumbai,
India 400 059. … Appellant

/versus/

1. Appellate Authority Under The TNSE Act
Deputy Commissioner of Labour (MW),
Chennai-600 006.

2. Henkel Marketing India Ltd.,
Rep. by its Manager (Finance),
No.69 and 70, Southern Avenue,
Industrial Estate,
Ambattur, Chennai 600 058.

3. Henkel India Limited,
Rep. by its Manager (Finance),
Nos.69 and 70, Southern Avenue,
Industrial Estate, Ambattur,
Chennai - 600 058.

4. Henkal AG and Co KgaA,
Rep. by Chairwoman of Supervisory Board,
Henkel AG and Co., KGaA Headquarters,

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Henkelstrasses 67, 40589,
Dusswedorf,
Germany.

5.Mr. D.Vijayalayan,
S/o. Mr. A.K. Damodaran,
New.No.15, Old.No.8, First Cross Street,
Kennedy Square,
Sembiam, Chennai -600 011. … Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent Act, to issue Writ of Certiorari, to set aside the order passed in W.P.No.8323 of 2016, dated 19.07.2023.

W.P.No.2951 of 2023

M/s. Jyothy Labs Limited,
Represented by its Chairman-cum-Managing Director
Ujala House, Ram Krishna Mandir Road,
Kondivita, Andheri (East) Mumbai,
India 400 059. … Appellant

/versus/

1. Appellate Authority Under The TNSE Act
Deputy Commissioner of Labour (MW),
Chennai-600 006.

2. Henkel India Ltd.,
Rep. by its Manager (Finance),
No.69 and 70, Southern Avenue,
Industrial Estate, Ambattur, Chennai 600 058.

3. Henkel India Limited,
Rep. by its Manager (Finance),
Nos.69 and 70, Southern Avenue,
Industrial Estate, Ambattur,
Chennai 600 058.

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4. Henkal AG and Co KGaA
Rep. by Chairwoman of Supervisory Board,
Henkel AG and Co., KGaA Headquarters,
Henkelstrasse 67, 40589,
Dusswedorf, Germany.

5.Mr. N.Dhanasekaran
S/o.R. Natarajan,
New No. 35, Old No. 23/2, Srinivasulu, Street,
Ayanavaram, Chennai 23. … Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent Act, to issue Writ of Certiorari, to set aside the order passed in W.P.No.8337 of 2016 dated 19.07.2023.

W.A.No.2953 of 2023

M/s. Jyothy Labs Limited,
Represented by its Chairman-cum-Managing Director
Ujala House Ram Krishna Mandir Road,
Kondivita, Andheri (East) Mumbai,
India 400 059. … Appellant

/versus/

1. Appellate Authority Under The TNSE Act
Deputy Commissioner of Labour (MW),
Chennai-600 006.

2. Henkel India Limited,
Rep. by its Manager (Finance),
No.69 and 70, Southern Avenue,
Industrial Estate,
Ambattur, Chennai 600 058.

3. Henkal AG and Co KGaA
Rep. by Chairwoman of Supervisory Board,
Henkel AG and Co., KGaA Headquarters,
Henkelstrasses 67, 40589,
Dusswedorf, Germany.

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4. Mr. R.M.Seenivasagan,
S/o.Mr.Ramasamy,
New No.35, Old No.13,
Flat No.18, Salaiyar Street,
First Floor, Raja Annamalaipuram (PO),
Chennai-28. … Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent Act, to issue Writ of Certiorari, to set aside the order passed in W.P.No.8332 of 2016 dated 19.07.2023.

W.A.No.2954 of 2023

M/s. Jyothy Labs Limited,
Represented by its Chairman-cum-Managing Director,
Ujala House, Ram Krishna Mandir Road,
Kondivita, Andheri (East) Mumbai,
India - 400 059. … Appellant

/versus/

1. Appellate Authority Under The TNSE Act
Deputy Commissioner of Labour (MW),
Chennai-600 006.

2. Henkel India Ltd.,
Rep. by its Manager (Finance),
No.69 and 70, Southern Avenue,
Industrial Estate, Ambattur, Chennai 600 058.

3. Henkal AG and CO KGaA
Rep. by Chairwoman of Supervisory Board,
Henkel AG and Co., KGaA Headquarters,
Henkelstrasse 67, 40589,
Dusswedorf, Germany.

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4. Mr. P.Sampath
S/o.Late.Parthasarathy,
New No.56, Old No.12, South Beach Avenue,
1st Street, MRC Nagar,
Chennai-28. … Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent Act, to issue Writ of Certiorari, to set aside the order passed in W.P.No.8333 of 2016 dated 19.07.2023.

W.A.No.2955 of 2023

M/s. Jyothy Labs Limited,
Rep. by its Chairman cum Managing Director
Ujala House Ram Krishna Mandir Road,
Kondivita, Andheri (East) Mumbai,
India 400 059. … Appellant

/versus/

1. Appellate Authority Under The TNSE Act
Deputy Commissioner of Labour (MW),
Chennai-600 006.

2. Henkel India Limited,
Rep. by its Manager (Finance),
No.69 and 70, Southern Avenue,
Industrial Estate, Ambattur, Chennai 600 058.

3. Henkal AG & Co KGaA
Rep. by Chairwoman of Supervisory Board,
Henkel AG and Co., KGaA Headquarters,
Henkelstrasse 67, 40589,
Dusswedorf, Germany.

4. Mr. R.A. Peter Alex
S/o. Mr. Rayappan Arulsamy,
No.21, Kaveri St, Sree Nagar Colony,
Thirumullaivoil,
Chennai – 600 062. … Respondents

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Prayer: Writ Appeal filed under Clause 15 of the Letters Patent Act, to issue Writ of Certiorari, to set aside the order passed in W.P.No.8327 of 2016 dated 19.07.2023.

W.A.No.2956 of 2023

M/s. Jyothy Labs Limited,
Represented by its Chairman-cum-Managing Director
Ujala House, Ram Krishna Mandir Road,
Kondivita, Andheri (East) Mumbai,
India 400 059. … Appellant

/versus/

1. Appellate Authority Under The TNSE Act
Deputy Commissioner of Labour (MW),
Chennai-600 006.

2. Henkel Marketing India Limited,
Rep. by its Manager (Finance),
No.69 and 70, Southern Avenue,
Industrial Estate, Ambattur,
Chennai 600 058.

3. Henkel India Ltd.,
Rep. by its Manager (Finance),
No.69 and 70, Southern Avenue,
Industrial Estate,
Ambattur, Chennai 600 058.

4. Henkal AG & Co KGaA
Rep. by Chairwoman of Supervisory Board,
Henkel AG and Co., KGaA Headquarters,
Henkelstrasse 67, 40589,
Dusswedorf, Germany.

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5.Mr. N.Kirubhakaran
S/o.T.Nathamuni,
Mullai Apartment,
Flat No.10, New No.126/Old No.55,
Pillaiyar Koil Street, Jafferkhanpet,
Chennai 83. … Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent Act, to issue Writ of Certiorari, to set aside the order passed in W.P.No.8340 of 2016 dated 19.07.2023.

W.A.No.2957 of 2023

M/s. Jyothy Labs Limited,
Rep. by its Chairman-cum-Managing Director
Ujala House, Ram Krishna Mandir Road,
Kondivita, Andheri (East) Mumbai,
India - 400 059. … Appellant

/versus/

1. Appellate Authority Under The TNSE Act
Deputy Commissioner of Labour (MW),
Chennai-600 006.

2. Henkel India Limited.,
Rep. by its Manager (Finance),
No.69 and 70, Southern Avenue,
Industrial Estate, Ambattur, Chennai 600 058.

3. Henkal AG and Co KGaA,
Rep. by Chairwoman of Supervisory Board,
Henkel AG and Co., KGaA Headquarters,
Henkelstrasses 67, 40589,
Dusswedorf, Germany.

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4.Mr. N Ramamurthy,
S/o. K. Narayanasamy,
No.13-A, Lakshmi Apartments,
2nd Street, Balaji Nagar, Nanganallur,
Chennai-600 061. … Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent Act, to issue Writ of Certiorari Mandamus, to set aside the order passed in W.P.No.30373 of 2018 dated 19-07-2023.

W.A.No.2958 of 2023
M/s. Jyothy Labs Limited,
Represented by its Chairman-cum-Managing Director,
Ujala House, Ram Krishna Mandir Road,
Kondivita, Andheri (East) Mumbai,
India 400 059. … Appellant

/versus/

1. Appellate Authority Under The TNSE Act
Deputy Commissioner of Labour (MW),
Chennai-600 006.

2. Henkel India Limited.,
Represented by its Manager (Finance),
No.69 and 70, Southern Avenue,
Industrial Estate,
Ambattur, Chennai 600 058.

3. Henkal AG & Co KGaA
Rep. by Chairwoman of Supervisory Board,
Henkel AG and Co., KGaA Headquarters,
Henkelstrasses 67, 40589,
Dusswedorf, Germany.

4. Ms. Jamuna Sivakumar
S/o.Sivakumar,
G1 and G2, Jasmine Enclave,

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15/17, Bhagthavachalam Nagar, Anna Avenue,
Adayar, Behind Ganapathi Ram Theatre,
Chennai-600 020. … Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent Act, to issue Writ of Certiorari, to set aside the order passed in W.P.No.8336 of 2016 dated 19.07.2023.

W.A.No.2959 of 2023

M/s. Jyothy Labs Limited,
Rep. by its Chairman cum Managing Director
Ujala House, Ram Krishna Mandir Road,
Kondivita, Andheri (East) Mumbai,
India 400 059. … Appellant

/versus/

1. Appellate Authority Under The TNSE Act
Deputy Commissioner of Labour (MW),
Chennai-600 006.

2. Henkel India Limited,
Rep. by its Manager (Finance),
No.69 and 70, Southern Avenue,
Industrial Estate,
Ambattur, - Chennai 600 058.

3. Henkal AG & Co KGaA
Rep. by Chairwoman of Supervisory Board,
Henkel AG and Co., KGaA Headquarters,
Henkelstrasse 67, 40589, Dusswedorf, Germany.

4. Ms. Jamuna Sivakumar
W/o.Mr. Sivakumar,
G1 and G2, Jasmine Enclave,
15/17, Bhagthavachalam Nagar,
Anna Avenue, Adayar,
Behind Ganapathi Ram Theatre,
Chennai 20. … Respondents

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Prayer: Writ Appeal filed under Clause 15 of the Letters Patent Act, to issue Writ of Certiorari Mandamus, to set aside the order passed in W.P.No.8335 of 2016 dated 19-07-2023.

W.A.No.2962 of 2023

M/s. Jyothy Labs Limited,
Represented by its Chairman-cum-Managing Director,
Ujala House, Ram Krishna Mandir Road,
Kondivita, Andheri (East), Mumbai,
India 400 059. … Appellant

/versus/

1. Appellate Authority Under The TNSE Act
Deputy Commissioner of Labour (MW),
Chennai-600 006.

2. Henkel India Limited,
Rep. by its Manager (Finance),
No.69 and 70, Southern Avenue,
Industrial Estate,
Ambattur, Chennai - 600 058.

3. Henkal AG and Co KGaA
Rep. by Chairwoman of Supervisory Board,
Henkel AG and Co., KGaA Headquarters,
Henkelstrasses 67, 40589,
Dusswedorf, Germany.

4. Mr. K.Prabhu
S/o.T.T.Kalyanasundaram (Late),
No.51, Pillaiyar Kovil Street,
Sakthi Flats, Block C, Door No.G-2,
Jafferhanpet, Chennai 83. … Respondents

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Prayer: Writ Appeal filed under Clause 15 of the Letters Patent Act, to issue Writ of Certiorari, to set aside the order passed in W.P.No.8342 of 2016, dated 19.07.2023.

For Appellant: in all appeals	Mr.S.Ravindran, Senior Counsel, for Mr.John Zachariah.
For Respondents: in W.A.Nos.2952, 2940, 2941, 2949, 2950, 2951, 2956 of 2023	Mr.P.R.Thiruneelakandan, for R5
For Respondents: in W.A.Nos.2938, 2939, 2943, 2944, 2945, 2946, 2948, 2953, 2954, 2955, 2957, 2958, 2959, 2960 & 2962 of 2023 & 2942 of 2023	Mr.P.R.Thiruneelakandan, for R4

W.A.No.2664 of 2026

Mr. R.M.Seenivasagan,
S/o.Mr.Ramasamy,
New No.35, Old No.13, Flat No.18, Selaiyar Street,
1st Floor, Raja Annamalaipuram (PO),
Chennai-28 … Appellant

/versus/

1. Appellate Authority Under The TNSE Act
Deputy Commissioner of Labour (MW),
Chennai-600 006.

2. Henkel India Limited,
Rep. by its Manager (Finance),
Nos.69 and 70, Southern Avenue,
Industrial Estate,
Ambattur, Chennai - 600 058.

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3. Henkal AG and Co KGaA
Rep. by Chairwoman of Supervisory Board,
Henkel AG and Co., KGaA Headquarters,
Henkelstrasses 67, 40589,
Dusswedorf, Germany.

4. M/s. Jyothy Laboratories Limited,
Represented by its Chairman-cum-Managing Director,
Ujala House, Ram Krishna Mandir Road,
Kondivita, Andheri (East), Mumbai,
India 400 059. … Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent Act, to issue Writ of Certiorari Mandamus, to set aside the order dated 19.07.2023 passed in W.P.No.8331 of 2016 and restore the order of the 1st Respondent Appellate Authority order dated 16.12.2015, made in the TNSE Appal TSE/II/15/2012 and allow this Writ Appeal with cost.

W.A.No.2669 of 2026

Mr. P.Sampath
S/o.Late.Parthasarathy,
New NO.56, Old No.12, South Beach Avenue,
1st Street, MRC Nagar,
Chennai-28. … Appellant

/versus/

1. Appellate Authority Under The TNSE Act
Deputy Commissioner of Labour (MW),
Chennai-600 006.

2. Henkel India Limited,
Rep. by its Manager (Finance),
Nos.69 and 70, Southern Avenue,
Industrial Estate,
Ambattur, Chennai - 600 058.

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3. Henkal AG and Co KGaA
Rep. by Chairwoman of Supervisory Board,
Henkel AG and Co., KGaA Headquarters,
Henkelstrasses 67, 40589,
Dusswedorf, Germany.

4. M/s. Jyothy Lab Limited,
Represented by its Chairman-cum-Managing Director,
Ujala House, Ram Krishna Mandir Road,
Kondivita, Andheri (East), Mumbai,
India 400 059. … Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent Act, to issue Writ of Certiorari Mandamus, to set aside the order dated 19.07.2023 passed in W.P.No.8333 of 2016 and restore the order of the 1st respondent Appellate Authority order dated 16.12.2015, made in the TNSE Appeal TSE II/13/2012, and allow this Writ Appeal with cost.

W.A.No.2662 of 2026

D.Vijayalayan,
S/o.A.K.Damodaran,
New No.15, Old NO.8, First Cross Street,
Kennedy Square, Sembiam,
Chennai-600 011. … Appellant

/versus/

1. Appellate Authority Under The TNSE Act
Deputy Commissioner of Labour (MW),
Chennai-600 006.

2. Henkel Marketing India Limited,
Rep. by its Manager (Finance),
No.69 and 70, Southern Avenue,
Industrial Estate,
Ambattur, Chennai 600 058.

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3. Henkel India Ltd.,
Rep. by its Manager (Finance),
No.69 and 70, Southern Avenue,
Industrial Estate,
Ambattur, Chennai - 600 058.

4. Henkal AG & Co KGaA
Rep. by Chairwoman of Supervisory Board,
Henkel AG and Co., KGaA Headquarters,
Henkelstrasse 67, 40589,
Dusswedorf, Germany.

5. M/s. Jyothy Lab Limited,
Represented by its Chairman-cum-Managing Director,
Ujala House, Ram Krishna Mandir Road,
Kondivita, Andheri (East), Mumbai,
India 400 059. … Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent Act, to issue Writ of Certiorari Mandamus, to set aside the order dt. 19.07.2023 made in WP No.8323/2016 and restore the order of the 1st Respondent Appellate Authority order dt.16.12.2015 made in the TNSE Appeal TSE II/14/2012 and allow this Writ Appeal.

W.P.No.2663 of 2026

V. Kumaravel
S/o. S. Vijayasekaran,
No.4/21A, Vasantham Apartments,
Venkatesh Nagar Main Road,
Virugambakkam,
Chennai – 092. … Appellant

/versus/

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1. Appellate Authority Under The TNSE Act
Deputy Commissioner of Labour (MW),
Chennai-600 006.

2. Henkel Marketing India Limited,
Rep. by its Manager (Finance),
No.69 and 70, Southern Avenue,
Industrial Estate,
Ambattur, Chennai 600 058.

3. Henkel India Ltd.,
Rep. by its Manager (Finance),
No.69 and 70, Southern Avenue,
Industrial Estate,
Ambattur, Chennai 600 058.

4. Henkal AG & Co KGaA
Rep. by Chairwoman of Supervisory Board,
Henkel AG and Co., KGaA Headquarters,
Henkelstrasse 67, 40589,
Dusswedorf, Germany.

5. M/s. Jyothy Lab Limited,
Represented by its Chairman-cum-Managing Director,
Ujala House, Ram Krishna Mandir Road,
Kondivita, Andheri (East), Mumbai,
India 400 059. … Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent Act, to issue Writ of Certiorari Mandamus, to set aside the order dated 19.07.2023 passed in W.P.No.8325 of 2016 and restore the order of the 1st Respondent Appellate Authority order dated 16.12.2015, made in TNSE Appeal TSE II/10/2012 and allow this Writ Appeal with cost.

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W.A.No.2665 of 2026

Mr. N. Dhanasekaran
S/o.R.Natarajan,
New No.35 Old No.23/2,
Srinivasalu Street, Ayanavaram,
Chennai - 600 023. … Appellant

/versus/

1. Appellate Authority Under The TNSE Act
Deputy Commissioner of Labour (MW),
Chennai-600 006.

2. Henkel Marketing India Limited,
Rep. by its Manager (Finance),
No.69 and 70, Southern Avenue,
Industrial Estate,
Ambattur, Chennai 600 058.

3. Henkel India Ltd.,
Rep. by its Manager (Finance),
No.69 and 70, Southern Avenue,
Industrial Estate,
Ambattur, Chennai 600 058.

4. Henkal AG & Co KGaA
Rep. by Chairwoman of Supervisory Board,
Henkel AG and Co., KGaA Headquarters,
Henkelstrasse 67, 40589,
Dusswedorf, Germany.

5. M/s. Jyothy Lab Limited,
Represented by its Chairman-cum-Managing Director,
Ujala House, Ram Krishna Mandir Road,
Kondivita, Andheri (East), Mumbai,
India 400 059. … Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent Act, to issue Writ of Certiorari Mandamus, to set aside the order dt. 19.07.2023 made in

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W.P.No.8337 of 2016 and restore the order of the 1st Respondent Appellate Authority order dated 16.12.2015, made in the TNSE Appeal TSE II/19/2012, and allow this Writ Appeal.

W.A.No.2666 of 2026

Ms. Jamuna Sivakumar
W/o.Mr.Sivakumar,
G1 and G2, Jasmine Enclave,
15/17, Bhagthavachalam Nagar,
Anna Avenue, Adayar, Behind Ganapathi Ram Theatre,
Chennai-20. … Appellant

/versus/

1. Appellate Authority Under The TNSE Act
Deputy Commissioner of Labour (MW),
Chennai-600 006.

2. Henkel India Ltd.,
Rep. by its Manager (Finance),
No.69 and 70, Southern Avenue,
Industrial Estate,
Ambattur, Chennai 600 058.

3. Henkal AG & Co KGaA
Rep. by Chairwoman of Supervisory Board,
Henkel AG and Co., KGaA Headquarters,
Henkelstrasse 67, 40589,
Dusswedorf, Germany.

4. M/s. Jyothy Lab Limited,
Represented by its Chairman-cum-Managing Director,
Ujala House, Ram Krishna Mandir Road,
Kondivita, Andheri (East), Mumbai,
India 400 059. … Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent Act, to issue Writ of Certiorari Mandamus, to set aside the order dated 19.07.2023 passed in

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W.P.No.8335 of 2016 and restore the order of the 1st respondent Appellate Authority order dated 16.12.2015, made in the TNSE Appeal TSE II/18/2012, and allow this Writ Appeal with cost.

W.A.No.2667 of 2026

Mr. B.N. Sivaramakrishna Prasad
S/o.Late.Nathamuni,
No.1, 1st Main Road, (West) Shenoy Nagar,
Chennai - 600 030. … Appellant

/versus/

1. Appellate Authority Under The TNSE Act
Deputy Commissioner of Labour (MW),
Chennai-600 006.

2. Henkel India Ltd.,
Rep. by its Manager (Finance),
No.69 and 70, Southern Avenue,
Industrial Estate,
Ambattur, Chennai 600 058.

3. Henkal AG & Co KGaA
Rep. by Chairwoman of Supervisory Board,
Henkel AG and Co., KGaA Headquarters,
Henkelstrasse 67, 40589,
Dusswedorf, Germany.

4. M/s. Jyothy Lab Limited,
Represented by its Chairman-cum-Managing Director,
Ujala House, Ram Krishna Mandir Road,
Kondivita, Andheri (East), Mumbai,
India 400 059. … Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent Act, to issue Writ of Certiorari Mandamus, to set aside the order dated 19.07.2023 passed in

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WP.No.30380 of 2018 and restore the order of the 1st Respondent Appellate Authority order dated 30.05.2018, made in the TNSE Appal TSE/II/11/2012 and allow this Writ Appeal with cost.

W.A.No.2668 of 2026

Mr. K.Prabu
S/o.T.T.Kalyanasundaram Late,
No.123, 1st Street, Casagrand Bloom,
Thirumudivakkam,
Chennai - 600 044. … Appellant

/versus/

1. Appellate Authority Under The TNSE Act
Deputy Commissioner of Labour (MW),
Chennai-600 006.

2. Henkel India Ltd.,
Rep. by its Manager (Finance),
No.69 and 70, Southern Avenue,
Industrial Estate,
Ambattur, Chennai 600 058.

3. Henkal AG & Co KGaA
Rep. by Chairwoman of Supervisory Board,
Henkel AG and Co., KGaA Headquarters,
Henkelstrasse 67, 40589,
Dusswedorf, Germany.

4. M/s. Jyothy Lab Limited,
Represented by its Chairman-cum-Managing Director,
Ujala House, Ram Krishna Mandir Road,
Kondivita, Andheri (East), Mumbai,
India 400 059. … Respondents

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Prayer: Writ Appeal filed under Clause 15 of the Letter Patent Act, to issue Writ of Certiorari Mandamus, to set aside the order dated 19.07.2023 made in W.P.No.8341 of 2016 and restore the order of the 1st Respondent Appellate Authority order dt.16.12.2015 made in the TNSE Appeal TSE II/8/2012, and allow this Writ Appeal.

W.A.No.2670 of 2026

Mr. R.A.Peter Alex
S/o. Mr. Rayappan Arulsamy,
No.21, Kaveri Street, Street Nagar Colony,
Thirumullaivoil,
Chennai 62. … Appellant

/versus/

1. Appellate Authority Under The TNSE Act
Deputy Commissioner of Labour (MW),
Chennai-600 006.

2. Henkel India Ltd.,
Rep. by its Manager (Finance),
No.69 and 70, Southern Avenue,
Industrial Estate,
Ambattur, Chennai 600 058.

3. Henkal AG & Co KGaA,
Rep. by Chairwoman of Supervisory Board,
Henkel AG and Co., KGaA Headquarters,
Henkelstrasse 67, 40589,
Dusswedorf, Germany.

4. M/s. Jyothy Lab Limited,
Represented by its Chairman-cum-Managing Director,
Ujala House, Ram Krishna Mandir Road,
Kondivita, Andheri (East), Mumbai,
India 400 059. … Respondents

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Prayer: Writ Appeal filed under Clause 15 of the Letter Patent Act, to issue Writ of Certiorari Mandamus, to set aside the order dated 19.07.2023 passed in W.P.No.8327 of 2016 and restore the order of the 1st Respondent Appellate Authority order dated 16.12.2015 made in the TNSE Appal TSE/II/16/2012 and allow this Writ Appeal with cost.

W.A.No.2671 of 2026

Mr. M.T. Kumaravelu,
S/o.Late M.R.Thandavarayan,
New No.84, Old No.33, Butchammal Street,
New Washermanpet,
Chennai – 081. … Appellant

/versus/

1. Appellate Authority Under The TNSE Act
Deputy Commissioner of Labour (MW),
Chennai-600 006.

2. Henkel India Ltd.,
Rep. by its Manager (Finance),
No.69 and 70, Southern Avenue,
Industrial Estate,
Ambattur, Chennai 600 058.

3. Henkal AG & Co KGaA
Rep. by Chairwoman of Supervisory Board,
Henkel AG and Co., KGaA Headquarters,
Henkelstrasse 67, 40589,
Dusswedorf, Germany.

4. M/s. Jyothy Lab Limited,
Represented by its Chairman-cum-Managing Director,
Ujala House, Ram Krishna Mandir Road,
Kondivita, Andheri (East), Mumbai,
India 400 059. … Respondents

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Prayer: Writ Appeal filed under Clause 15 of the Letter Patent Act, to issue Writ of Certiorari Mandamus, to set aside the order dated 19.07.2023 passed in WP No.8329 of 2016 and restore the order of the 1st respondent Appellate Authority order dated 16.12.2015, made in the TNSE Appeal TSE II/12/2012, and allow this Writ Appeal with cost.

W.A.No.2672 of 2026

Mr. N.Ramamurthy
S/o. K.Narayanasamy,
No 13-A, Lakshmi Apartments,
2nd Street, Balaji Nagar,
Nanganallur, Chennai 061. … Appellant

/versus/

1. Appellate Authority Under The TNSE Act
Deputy Commissioner of Labour (MW),
Chennai-600 006.

2. Henkel India Ltd.,
Rep. by its Manager (Finance),
No.69 and 70, Southern Avenue,
Industrial Estate, Ambattur, Chennai 600 058.

3. Henkal AG & Co KGaA
Rep. by Chairwoman of Supervisory Board,
Henkel AG and Co., KGaA Headquarters,
Henkelstrasse 67, 40589,
Dusswedorf, Germany.

4. M/s. Jyothy Lab Limited,
Represented by its Chairman-cum-Managing Director,
Ujala House, Ram Krishna Mandir Road,
Kondivita, Andheri (East), Mumbai,
India 400 059. … Respondents

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Prayer: Writ Appeal filed under Clause 15 of the Letter Patent Act, to issue Writ of Certiorari Mandamus, to set aside the order dated 19.07.2023 passed in W.P.No.30373 of 2016 and restore the order of the 1st respondent Appellate Authority order dated 30.05.2018, made in the TNSE Appeal TSE II/9/2012, and allow this Writ Appeal with cost.

W.A.No.2673 of 2026

Mr. N. Kirubhakaran
S/o. T. Nathamuni,
Alsa Townsville, Flat No.105, No.170/38,
Arcot Road, Valasarawakkam,
Chennai – 087. … Appellant

/versus/

1. Appellate Authority Under The TNSE Act
Deputy Commissioner of Labour (MW),
Chennai-600 006.

2. Henkel Marketing India Limited,
Rep. by its Manager (Finance),
No.69 and 70, Southern Avenue,
Industrial Estate,
Ambattur, Chennai 600 058.

3. Henkel India Ltd.,
Rep. by its Manager (Finance),
No.69 and 70, Southern Avenue,
Industrial Estate,
Ambattur, Chennai 600 058.

4. Henkal AG & Co KGaA
Rep. by Chairwoman of Supervisory Board,
Henkel AG and Co., KGaA Headquarters,
Henkelstrasse 67, 40589,
Dusswedorf, Germany.

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5. M/s. Jyothy Lab Limited,
Represented by its Chairman-cum-Managing Director,
Ujala House, Ram Krishna Mandir Road,
Kondivita, Andheri (East), Mumbai,
India 400 059. … Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent Act, to issue Writ of Certiorari Mandamus, to set aside the order dated 19.07.2023 made in W.P.No.8339 of 2016 and restore the order of the 1st Respondent Appellate Authority order dt.16.12.2015 made in the TNSE Appeal TSE II/20/2012, and allow this Writ Appeal.

For Appellant: in all appeals	Mr.P.R.Thiruneelakandan
For Respondents: in W.A.Nos.2664, 2669, 2666, 2667, 2668, 2670, 2671 & 2672 of 2026	Mr.S.Ravindran, Senior Counsel, for Mr.John Zachariah, for R4
For Respondents: in W.A.Nos.2662, 2663, 2665 & 2673 of 2026	Mr.S.Ravindran, Senior Counsel, for Mr.John Zachariah, for R5

COMMON JUDGMENT

Introduction:

This is the case of eleven terminated employees of *M/s.Henkel India Limited,* which was a subsidiary Company of *M/s.Henkel AG and CO KGaA, Germany,* holding 50.9% of shares. Those shares were transferred to the

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appellant Company, namely M/s.Jyothy Labs Limited (JLL) and in the course of takeover and amalgamation, these 11 employees were terminated on 01.11.2011 after issuance of notice, giving three months salary and *ex gratia.*

2. The said 11 employees approached the Deputy Commissioner of Labour (Minimum Wages), who is the Appellate Authority appointed under the Tamil Nadu Shops and Establishments Act, 1947, seeking redressal under Section 41(2) of the Tamil Nadu Shops and Establishment Act. They prayed for reinstatement with continuity of service, back wages and attendant benefits. Subsequently, the prayer was amended for the relief of 'severance compensation' under Section 25FF of the Industrial Disputes Act, 1947 relying on the settlement entered between the appellant and its workmen engaged in Karaikal Unit under Section 18(1) dated 28.07.2012 and the settlement under Section 12(3) dated 10.08.2012.

3. Initially after transfer of shares, from 24.08.2012, the name of M/s.Henkel India Limited changed to M/s.Jyothy Consumer Products Limited. Thereafter, on 12.04.2013 M/s.Jyothy Consumer Products Limited (JCL) got merged with M/s.Jyothy Labs Limited (JLL) which is the appellant herein.

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4. For convenient understanding of the dispute, the essential details of the 11 employees, including their names, designations, date of joining, last drawn wages and date of termination, are given in the table provided below:

Sl.No.	TNSE Appeal No.	Name of the Appellant Thiru.	Designation at the time of appointment	Date of Joining	Last drawn wages	Date of termination
1.	8/2012	K.Prabu	Junior Accountant	15.03.91	53,118/-	29.10.2012
2.	12/2012	M.T.Kumaravelu	Junior Steno Assistant	01.01.93	33,402/-	29.10.2012
3.	13/2012	P.Sampath	Junior Steno Assistant	20.2.92	37,792/-	29.10.2012
4.	15/2012	RM.Seenivasagan	Junior Assistant	15.3.91	36,670/-	29.10.2012
5.	16/2012	R.A.Peter Alex	Sales Officer	3.1.94	1,00,343/-	29.10.2012
6.	17/2012	S. Karunanidhi	Casual Employee	1.1.93	12,996/-	29.10.2012
7.	18/2012	Thirumathi Jamuna Sivakumar	Confidential Secretary	1.2.2000	35,849/-	29.10.2012
8.	10/2012	V.Kumaravel	Trainee	18.11.97	20,009/-	29.10.2012
9.	14/2012	D.Vijayalayan	Purchase Assistant	15.12.05	49,431/-	29.10.2012
10.	19/2012	N.Dhanasekaran	Depot Assistant	1.10.93	30,611/-	29.10.2012
11.	20/2012	N.Kirubhakaran	Traniee	2.5.2002	23,515/-	29.10.2012

5. The Appellate Authority, after considering the pleadings, formulated the main points and the ancillary points for consideration, as set out below:

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(i) The main points arise for consideration:

1) Whether the appeals filed by the appellants under the Tamil Nadu Shops and Establishments Act are maintainable?

2) Whether the appellants can claim compensation under Chapter V-A of the Industrial Disputes Act in an appeal filed under section 41 of the Tamil Nadu Shops and Establishments Act and whether the Authority has got jurisdiction to try the claims?

3) Whether the appellants are entitled to receive retrenchment compensation in view of their termination? If so, how to compute the quantum of compensation?

(ii) The ancillary points arise for consideration:

(i) Whether the appellants are 'workman' under Section 2(s) of the Industrial Disputes Act, 1947?

(ii) Whether the respondents 'establishment' is an 'industry' under Section 2(j) of the Industrial Disputes Act, 1947?

(iii) Whether the termination of services of the appellants amounts to 'retrenchment' under Chapter V-A of the Industrial Disputes Act, 1947?

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6. Based on the evidence, the Appellate Authority, accepted the plea of the employees that, though they were designated as Managers, their service conditions remained unchanged throughout their employment and they were not conferred any managerial powers or duties or responsibilities of a Manager. Since they continued to carry out their work as Accountants/Clerks etc., the Appellate Authority held that these employees are to be considered as 'retrenched workmen', for the purpose of claiming relief under the Industrial Disputes Act. Taking into consideration of the fact that their termination of services was a consequence of the transfer of the Management from *M/s.Henkel India Limited* to *M/s.Jyothy Laboratories Limited,* as envisaged under Section 25FF of the Industrial Disputes Act, it amounts to retrenchment. That apart, taking note of the fact that when a dispute raised by the Trade Union functioning in the M/s. Henkel India Limited, Karaikal factory, an amicable settlement was arrived between the Workmen and the Management on 28.07.2012. Hence, applying the principle of 'Functional integrality', the Appellate Authority held that the terms of that settlement shall apply to these 11 employees also in view of the interdependence between the Factory at Karaikal and the Corporate Office at Chennai, where the appellant-employees were engaged. Accordingly, 90 days pay as severance compensation for each

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completed year of service was awarded with 12% interest.

7. Thus, in effect, the severance compensation payable to the 11 appellants was arrived as set out below and the Management was directed to pay the compensation amount together with interest at the rate of 12% per annum, from the date of termination till the date of payment of the entire amount.

Sl. No.	TNSE Appeal No.	Name of the Appellant Thiru.	Compensation Payable Rs.
1.	8/2012	K.Prabu	35,05,789/-
2.	12/2012	M.T.Kumaravelu	20,04,120/-
3.	13/2012	P.Sampath	23,80,896/-
4.	15/2012	RM.Seenivasagan	24,20,220/-
5.	16/2012	R.A.Peter Alex	57,19,551/-
6.	17/2012	S. Karunanidhi	7,79,760/-
7.	18/2012	Thirumathi Jamuna Sivakumar	13,98,111/-
8.	10/2012	V.Kumaravel	9,00,405/-
9.	14/2012	D.Vijayalayan	10,38,051/-
10.	19/2012	N.Dhanasekaran	17,44,827/-
11.	20/2012	N.Kirubhakaran	7,75,995
		Total amount	Rs.2,26,67,724/-

8. The Management, on being aggrieved by the award of severance compensation at the rate of 90 days salary for every completed year of service, together with interest at the rate of 12% from the date of termination, preferred

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9. The Learned Single Judge partly allowed the writ petitions *vide* a common order dated 19.07.2023, modifying the order of the Appellate Authority to the effect that the severance compensation be calculated at the rate of 70 days salary for every completed year of service and also reduced the rate of interest from 12% to 6% per annum, commencing from the date of termination till the date of payment. The modification was ordered recording the statement made by the Learned Counsel appearing for the employees that the Management had earlier agreed before the Appellate Authority to pay 65 days salary for every completed year of service as severance compensation. As against the common order of the Learned Single Judge, two sets of intra-court appeals are filed by the Management, in respect of each employees separately and another set by the Employees

10. In the appeals filed by the Management, besides the legality of converting petition filed under Tamil Nadu Shops and Establishment Act to Industrial Disputes Act, the legality of directing the Management to pay 70 days salary for every completed year of service and payment of interest at the rate of

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6% from the date of termination till the date of payment are questioned. The contention of the management is on the ground that these 11 employees are not workmen. The Management had paid enough compensation on termination of these 11 employees. It never agreed to pay 65 days salary for each completed year of service as recorded by the learned Single Judge. There is no functional integrality between the Corporate Office at Chennai in which these 11 employees served and the Factory at Karaikal to draw parity for extending the terms of the settlement entered in respect of the workers to these 11 employees.

11. On the part of the employees, being aggrieved by the order of the Learned Single Judge reducing the days of salary from 90 days to 70 days and the reduction of the interest rate from 12 % to 6 %, they have preferred appeals.

12. In short, the relief sought by the Management in the batch of Writ Appeals filed against the order of the Learned Single Judge is: (i) to set aside the common order of the High Court in the batch of writ petitions filed by them (ii) to set aside the order of the Appellate Authority (Deputy Commissioner of Labour) dated 16.12.2015 *in toto,* (iii) to consequentially dismiss the appeals filed by the employees before the Appellate Authority (Deputy Commissioner

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of Labour). Whereas, in the batch of appeals filed by the employees, they pray to set aside the common-order passed in the Writ Petitions which has modified the relief and to restore the order of the Deputy Commissioner of Labour/the Appellate Authority and to direct the payment of 90 days salary for every completed year of service with interest at the rate of 12% per annum from the date of termination till the date of payment of the compensation as ordered by the Appellate Authority.

13. The Learned Counsel appearing for the Management and the Learned counsel appearing for the employees made their respective submissions, with judgments as precedent in support of their line of submission.

14. Submissions and the reasoning:

The Learned Counsel appearing for the Management contended that the 11 employees who approached the Appellate Authority were the persons with managerial skills employed under the erstwhile establishment. Knowing well they are employees with Managerial skill working under the erstwhile Management, on termination challenged the same and sought reinstatement with back wages as per the provisions of Shops and Establishment Act. The relief

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was against the erstwhile Management at Germany and its subsidiary establishment at India and the appellant Company. Later without amending the petition, the relief alone was converted for 'severance compensation' under the Industrial Disputes Act. The Appellate Authority erroneously granted the relief as claimed, though these 11 employees do not fall within the category of "Workman" as defined under the Industrial Disputes Act nor their termination of service amount to retrenchment.

15. The Learned Counsel for the Management submits that the conversion of the petition filed under Section 41 of the Tamil Nadu Shops and Establishments Act (TNSE Act) into a petition under the Industrial Disputes Act which is only for employees those who fall within the definition of 'Workman' is *exfacie* erroneous. The termination of these 11 employees on closure of the Corporate Office will not fall within the meaning of 'retrenchment' on merger so as to attract the provisions of Chapter V-A of the Industrial Disputes Act to fix liability of paying severance compensation on the appellant. These employees are entitled for compensation as per their terms of appointment and promotion order. Having paid the compensation as per the terms of service condition, the appellant need not pay anything more.

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16. The next contention raised by the Management is that the settlement under Section 18(1), followed by the settlement under Section 12(3) between *M/s.Henkel India Limited* and the workers at Karaikal factory, have no relevance to the contesting employees who worked in the cadre of Managers in the Corporate Office at Chennai. These 11 employees were discharging the duties in the cadre of Managers and retained for a period to oversee the closure of the units running in loss. It was further contended that, even assuming Section 25FF of the Industrial Disputes Act is applicable to the respondents, the compensation awarded should have been only in terms of Section 25FF of Industrial Disputes Act and not otherwise. By erroneously applying the doctrine of functional integrality, wrongly compensation was awarded par with the Workmen at Karaikal Factory. In the absence of pleading and proof for sharing the common pool of resources, the Appellate Authority ought not to have applied the doctrine of Functional Integrality. He further submitted, the Learned Judge in Writ Petitions though held these 11 employees are not 'Workman', however awarded an *exgratia* compensation of 65 days salary per completed year of service with 6% interest.

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17. According to the Management, the termination was the result of a closure of the Madras Corporate Office and it does not amount to retrenchment. In the course of the amalgamation of M/s.Jyothy Consumer Products Limited (JCL) with M/s.Jyothy Labs Limited (JLL), some employees were transferred to other units and some were terminated after paying the compensation more than what statute mandates. In the employment orders issued to the contesting respondents, it is clearly stated that their employment is terminable with three months notice under Section 41 of the Tamil Nadu Shops and Establishments Act. The termination orders were issued along with the compensation payable in lieu of termination and an additional amount was also paid as *ex-gratis*. While so, the workers at Karaikal factory, at the time of the takeover by M/s.Jyothy Consumer Products Limited (JCL) from M/s.Henkel on amalgamation with M/s.Jyothy Labs Limited (JLL) were later terminated and paid with compensation pursuant to the settlements under Sections 18(1) and 12 (3). These workmen are class by themselves and hence parity could not be drawn between the Managers or technically skilled persons working at the Corporate Office in Chennai and the workers employed at the Factory in Karaikal.

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18. According to the Management, the Appellate Authority, by misapplying the doctrine of functional integrality between the Karaikal factory and Corporate office at Chennai, erred in awarding 90 days salary for every completed year of service, which amounts to treating unequals as equals. While so, the Learned Single Judge without addressing the core legal and factual error in the award of the Appellate Authority, modified the award instead of setting aside the award.

19. Per contra, the learned counsel appearing for the workmen/employees submitted that, though initially the appeals were filed for reinstatement and back wages under Section 41 of the Tamil Nadu Shops and Establishments Act, which is a State enactment, at the relevant point of time, the said Act contained no provision for seeking relief in cases of retrenchment. In such case, Courts have held the Central legislation (i.e., Industrial Disputes Act) which occupies the field has to be followed. The Appellate Authority had rightly applied the law as laid by the Hon'ble Supreme Court and awarded the appropriate and fair compensation. Whereas the Learned Single Judge, without any justifiable reasoning reduced the quantum of relief as well as the rate of interest. The reduction of relief without any plausible reason is liable to be set

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aside and the order of Deputy Commissioner of Labour/the Appellate Authority to be restored.

20. To buttress the above submission, the Learned Counsel for the Employees, rely on the judgment of the Hon'ble Supreme Court in ***Krishna District Co-operative Marketing Society Limited, Vijayawada vs. N.V.Purnachandra Rao & others*** *reported in* ***1987 AIR 1960,*** which was subsequently followed by other High Courts.

21. It is the case of the Learned Counsel for the employees that the Courts in India had consistently held, the provisions in Chapter V-A of the Industrial Disputes Act under the heading 'Retrenchment' occupies the field in case of employees covered under the Shops and Establishment Act, whenever the termination arises due to transfer of Undertaking. In the instant case, though the termination was challenged before the Appellate Authority, realising the 'termination order' in fact is a retrenchment in view of transfer of the Management on merger, relief under the Industrial Disputes Act was sought and the Appellate Authority had rightly considered the dictum laid by the Hon'ble Supreme Court and awarded adequate compensation under appropriate statute.

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Whereas, the High Court, without assigning any reason had reduced the quantum of compensation from 90 days to 70 days salary for every completed year of service and also reduced the rate of interest from 12% to 6% per annum. Hence, the order of the Learned Single Judge which does not provide reason as to why the original order passed by the Appellate Authority is to be restored.

22. In the course of argument, it was brought to our notice that pending appeal, one of the employee had entered into a compromise with the Management and agreed to withdraw his claim. The Management has paid him 15 days salary for each completed year of service and when same compensation was offered by the Management to the remaining appellants, they declined.

23. <u>Analysis of rival submissions:</u>

It is an admitted fact that these employees were not appointed by the Appellant Company, namely *M/s. Jyothy Labs Limited*. They were employed with *M/s.Henkel India Limited,* which was a subsidiary Company of *M/s.Henkal AG & Co. KGaA, Germany.* After acquiring the shares of *M/s.Henkal AG&Co, KGaA, Germany*, the Management has stage by stage drifted to the Appellant Company.

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24. The Learned Counsel appearing for the employees states that the notice ordered by this Court in the appeals filed by the employees to serve on *M/s.Henkal AG & Co KGaA, Germany,* the former holding company, could not be served in view of its location. Though there was no direct privity of contract between the contesting employees and first respondent, however by virtue of the terms of the amalgamation the Management which has taken over the company has taken the responsibility of paying the employees worked under the erstwhile management. Having taken over the Management, *M/s.Jyothy Lab Limited*, has paid a paltry sum as compensation. After paying the 'severance compensation' to one of the employees and settled the matter outside the Court, in the course of pendency of the present appeals, the Management cannot evade its responsibility towards rest of the employees, Management is estopped from claiming that the contesting employees are not entitled for 'severance compensation' as per provisions of the Industrial Disputes Act. Even under the Shops and Establishments Act, after the amendment and insertion of sub-section (2-B) to Section 41 of the Tamil Nadu Shops and Establishments Act, the Management would be liable to pay compensation if there is scope for reinstatement, the Act being a beneficial legislation, the amendment has to be given retrospective effect.

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25. From the submissions made on the side of the Management and on the side of the Employees, the following points arises for consideration:

(i) Whether the respondent-employees fall within the definition of "workmen" under the Industrial Disputes Act, 1947 ? and

(ii) Whether the compensation paid or offered by the Management at the time of termination was adequate in terms of the Industrial Disputes Act or under Tamil Nadu Shops and Establishment Act and, if not, whether the employees are entitled for higher compensation, If yes, whether parity drawn with the employees engaged at the Karaikal factory based on the principle of functional integrality is sustainable?

26. For proper answer to the above questions, the provisions which are relevant and necessary are to be referred.

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(i) Section 41 of the Tamil Nadu Shops and Establishment Act, reads as below:

> *41. Notice of dismissal -*
>
> *(1) No employer shall dispense with the services of a person employed continuously for a period of not less than six months, except for a reasonable cause and without giving such person at least one months notice or wages in lieu of such notice, provided however, that such notice shall not be necessary where the services of such person are dispensed with on a charge of misconduct supported by satisfactory evidence recorded at an enquiry held for the purpose. (Emphasis added)*
>
> *(2) The person employed shall have a right to appeal to such authority and within such time as may be prescribed either on the ground that there was no reasonable cause for dispensing with his services or on the ground that he had not been guilty of misconduct as held by the employer.(Emphasis added)*
>
> *(3) The decision of the appellate authority shall be final and binding on both the employer and the person employed.*

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(ii) Section 41(2-B) of the Tamil Nadu Shops and Establishments Act, 1947, (w.e.f., 01.04.2017) reads as below:-

> *"(2-B) The appellate authority, may, after giving notice in the prescribed manner to the employer and the person employed, dismiss the appeal or direct the reinstatement of the person employed, with or without wages for the period he was kept out of employment or direct payment of compensation without reinstatement of grant such other relief as it deems fit in the circumstances of the case." (Emphasis added)*

(iii) Section 25 FF of the Industrial Disputes Act, reads as below:-

> ***"25-FF. Compensation to workmen in case of transfer of undertakings.—*** *Where the ownership or management of an undertaking is transferred, whether by agreement or by operation of law, from the employer in relation to that undertaking to a new employer, every workman who has been in continuous service for not less than one year in that undertaking immediately before such transfer shall be entitled to notice and compensation in accordance with the provisions of section 25F, as if the workman had been retrenched:*
>
> *Provided that nothing in this section shall apply to a workman in any case where there has been a change of employers by reason of the transfer, if—*

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(a) *the service of the workman has not been interrupted by such transfer;*

(b) *the terms and conditions of service applicable to the workman after such transfer are not in any way less favourable to the workman than those applicable to him immediately before the transfer; and*

(c) *the new employer is, under the terms of such transfer or otherwise, legally liable to pay to the workman, in the event of his retrenchment, compensation on the basis that his service has been continuous and has not been interrupted by the transfer."*

(iv) Section 25F of the Industrial Disputes Act, reads as below:

25F. Conditions precedent to retrenchment of workmen.— No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—

(a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice;

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(b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months; and (Emphasis added)

(c) notice in the prescribed manner is served on the appropriate Government or such authority as may be specified by the appropriate Government by notification in the Official Gazette."

27. As submitted by the Learned Counsel for the Management, we find that the said sub-section (2-B) of Section 41 in Tamil Nadu Shops and Establishments Act, was inserted by way of Amendment which has came into effect only on 01.04.2017 and therefore, the amended provision to Section 41 of the Tamil Nadu Shops and Establishments Act, would not apply to employees who were terminated under Section 41 long before the advent of sub-section (2-B) to Section 41 of the Tamil Nadu Shops and Establishments Act. However, taking into consideration, the lacunae in the State Legislation viz., Shops and Establishment Act, Courts have consistently held that, in case of retrenchment if the State Act is silent about severance compensation, the benefit of the Central Legislation viz., Industrial Disputes Act, can be extended. In such facts and circumstances, the claim of severance compensation is maintainable provided

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the employee proves that he is a workman and entitled to get benefits of Chapter V-A of the Industrial Disputes Act.

(i) ***T.N.Chandra vs. South India Corporation*** reported in ***(1992) 1 LLJ 739*** *and*

(ii) ***M.Arunagiri vs. Bata India Ltd*** reported in ***(1992) 2 LLJ 46***.

28. To find out whether the employees, in this case clear the test laid in the above cases cited for substituting the relief, it is necessary to first look at the definition of "Workman" under the Industrial Disputes Act. The Hon'ble Supreme Court, in the landmark case ***Bangalore Water Supply and Sewerage Board vs. A.Rajappa***, *reported in* ***AIR 1978 SC 548***, laid down the below Triple test for industries:-

(i) A systematic activity,

(ii) Organized cooperation between employer and employees and;

(iii) Distribution of goods or services to satisfy human wants.

29. Even if the organization satisfies the above triple test, *ipso facto* all the persons employed in the industry cannot become workmen unless they

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satisfy the definition of "workmen" to claim relief under the Industrial Disputes Act, 1947. The definition of 'Workman' in Section 2(s) of the Industrial Disputes Act, reads as below:-

> ***2. Definitions.*** *– In this Act, unless there is anything repugnant in the subject or context, -*
>
> **(s)** *"workman" means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person-*
>
> *(i) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or*
>
> *(ii)who is employed in the police service or as an officer or other employee of a prison, or*
>
> *(iii)who is employed mainly in a managerial or administrative capacity, or*
>
> *(iv)who, being employed in a supervisory capacity, draws wages exceeding [ten thousand rupees]*

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per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.

30. In the appeal before the Appellate Authority, the specific case of the petitioners is that they were employees of M/s.Henkel Marketing India Ltd., a holding Company of M/s.Henkel India Ltd and the appellant herein, namely M/s.Jyothy Laboratories Limited, had acquired the entire shares of holding Company and trying to merge *M/s.Henkel India Limited* and *M/s.Henkel Marketing India Ltd.,* together with *M/s.Jyothy Labs Limited* hence their termination is illegal. Therefore, they have to be reinstated in services. However, neither in the petitions filed under Section 41 of Tamil Nadu Shops and Establishments Act nor after amendment to the relief by converting the petitions under Section 25FF of the Industrial Disputes Act, for severance compensation on the ground of retrenchment due to transfer of undertaking, the petitioners have made any amendment to describe themselves as "Workmen" and explained how they fall within the meaning of Workmen. Only in the course of examination before the Deputy Commissioner of Labour, they have claimed that though they all were promoted as Managers, there was no change in the nature of the work and they were discharging the same work as before

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their promotion to higher post with higher pay.

31. In the appeal before the Deputy Commissioner of Labour, the employees, in their respective appeals had invariably contended that they were employed at the Principal/Corporate Office of M/s. Henkel India Limited and in the clerical Department of M/s. Henkel factory situated at Karaikal, Puducherry. Since the Appellant company, M/s. Jyothy Laboratory Limited, did not come forward to take up the M/s. Henkel Employees without interruption of continuity of service, the M/s. Henkel India Employees Union raised a dispute before the Labour Officer (Conciliation) and also filed W.P.No.13385 of 2011 seeking severance compensation on account of transfer of undertaking from M/s.Henkel to M/s.Jyothy Laboratories Limited, in which the Management of M/s.Henkel conceded to pay compensation to all employees as per Section 25FF of the Industrial Disputes Act. However, regarding severance compensation irrespective of the cadre, the Henkel Management entered into a settlement under Section 12(3) with the M/s. Henkel India Employees Trade Union on 10.08.2012 and also a settlement under Section 18(1) on 28.07.2012 with individual employees, in which the employees of Henkel, including those in managerial cadre were paid severance compensation and terminal benefits.

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Therefore, these 11 employees though were not part of the Union or the settlement, they are entitled for severance compensation from M/s. Jyothy Laboratories Limited (the transferee company).

32. The claim of parity may not be appropriate, since the settlement and undertaking given to the Court by M/s.Henkel in respect of its employees cannot be passed on to the transferee Company, namely M/s.Jyothy Laboratories Limited merely on the basis of amalgamation. The employees, who were working in promoted cadre as Managers at the time of termination, due to closure of the Corporate office at Chennai and shifting the administration to Bangalore, cannot seek severance compensation from the Deputy Commissioner of Labour based on the settlements entered with the Workmen entered earlier to their termination. Besides the power to award severance compensation under Chapter V-A of the Industrial Disputes Act vest with the Labour Court and not with the Labour Commissioner. That apart, if any employee wants to claim benefit of workman, he must first plead and satisfy the definition of "Workman" under Section 2(s) of Industrial Disputes Act and the burden of proof that he is a Workman vest with the employee as laid in ***H.R.Adyanthaya and Others vs. Sandoz (India) Limited and Others,*** *reported*

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in ***(1994) 5 SCC 737 and R.Kannabiran vs. Deputy Commissioner of Labour (Appellate Authority)*** *reported in* ***2002 (3) LLN 541.***

33. The Deputy Commissioner of Labour, while considering the submissions made on behalf of the employees found in the letter of promotion, there is a clause that all terms and conditions of service as contained in the original order of appointment will continue to subsist. Based on this clause, he had arrived at the conclusion that there is no change in service condition. The Deputy Commissioner failed to consider other conditions in the same order. As a result, he has erred in holding there is no change in the service conditions and the promotion has not conferred any higher status to the petitioners.

34. In fact, at the time of termination, the designation of the 11 employees was as below:-

Sl. No.	TNSE Appeal No.	Name of the Appellant Thiru.	Designation at the time of appointment
1.	8/2012	K.Prabu	Junior Accountant
2.	12/2012	M.T.Kumaravelu	Junior Steno Assistant
3.	13/2012	P.Sampath	Junior Steno Assistant
4.	15/2012	RM.Seenivasagan	Junior Assistant
5.	16/2012	R.A.Peter Alex	Sales Officer
6.	17/2012	S. Karunanidhi	Casual Employee

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7.	18/2012	Thirumathi Jamuna Sivakumar	Confidential Secretary
8.	10/2012	V.Kumaravel	Trainee
9.	14/2012	D.Vijayalayan	Purchase Assistant
10.	19/2012	N.Dhanasekaran	Depot Assistant
11.	20/2012	N.Kirubhakaran	Trainee

35. From the above list, it is seen that the persons who were earlier appointed as Junior Accountant, Junior Assistant, Junior Assistant (Sales Officer), or Confidential Secretary were later promoted as Assistant Manager, Finance Executive, Secretary, Account Executive, Manager, etc., except one person, namely Thiru.S.Karunanidhi who was appointed as casual employee and later promoted as Driver-cum-Attender. It is reported that pending writ appeals settled his dispute receiving 15 days wages per year of completed service and not pursuing the appeal. All others were holding Managerial cadre. No doubt, in the promotion letter, it is mentioned that *'the terms and conditions of service as found in the appointment order remains unchanged.'* This will not refer to the nature of responsibilities and duties to be discharged by the employees at the promoted post. The oral submission that the employees were asked to discharge clerical work is contrary to documentary evidence, namely, their promotion orders and further their retention of these employees at the

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Corporate Office till the closure of *M/s. Henkel* operation on merger strengthens the version of the Management that these employees had specialized skills in the Managerial cadre, which was required at the Corporate office till its closure.

36. While examining whether an employee falls within the meaning of 'Workman', it is not the nomenclature given to the Post he holds, but the nature of duties and responsibilities has to considered. The documentary evidence containing the service condition and the duties, is relevant to determine whether the said employees been performing clerical work or managerial work. When the documents indicate that they are discharging the functions of Managers and accountants, no amount of oral evidence contrary to the documentary evidence can prevail without pleadings and proof. Further, we find the Labour Commissioner, while considering the first part of the promotion letter has failed to take note of the second part, which says the promotion is subject to termination by either side by giving the other, a written notice of not less than 90 days or 3 months basic pay in lieu of such notice. This part of the document clinches the issue that the employees were promoted to a higher post of Managerial cadre and their termination is subjected to three months notice or basic pay in lieu of notice.

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37. The Appellate Authority has viewed that the appellants before him (employees) are entitled to receive the benefits provided under Section 25F and 25FF of the Industrial Disputes Act, as the Management did not comply with the conditions laid down in Section 25FF. He has observed that the termination of the services of the workmen, as a result of transfer of ownership from one management to another management should be construed as retrenchment under this Section (Section 25 FF) being a legal fiction.

38. The fallacies in the above said observation of the Appellate Authority are of three-fold:

(a) First his conclusion that the appellants before him are workmen is not on the proper appreciation of the promotion letters. Ignoring the fact that they were promoted as Secretaries/Managers or Accountants. Going by designation do not fall within the definition of workmen. Certainly the designation is not a conclusive proof for deciding whether an employee is a 'Workman' as defined under Section 2(s) of the Industrial Disputes Act, however if an employee designated as a Manager/Accountant etc., claims to be a workman based on the nature of his duty and responsibilities, the employee ought to have pleaded so and lead evidence in case his workman status is controverted by the Management. In this case, such pleadings are

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conspicuously absent and the evidence is not adequate to prove these employees were workmen. These 11 employees were at the Corporate Office, Chennai, which was closed after the amalgamation. Except for one who was serving as a driver, all others were holding managerial posts. It is reported that one person pending appeal had settled his dispute with the Management and not pursuing the matter further. To prove that they were carrying on only clerical work, there is no pleading or documentary evidence. Only during the examination of witnesses, it was deposed that they were continued to do the clerical work even after their promotion as Accountants Managers. A fact asserted orally for the first time in the enquiry, without pleading or evidence regarding their status is a weak piece of evidence more so when it is contradictory to the documentary evidence. In the promotion letters, it is stated that ***"the advancement will not preclude you from performing duties as essentially and specifically required by the Management at all times."*** This condition wrongly construed as if it means that the promoted employees were still a Workman without conferring duties or responsibilities of Managerial cadre employees.

(b) The second fallacy in the order of the Appellate Authority is the conclusion that the termination was due to the transfer of undertaking simpliciter. In fact, the termination was not due to change of management

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alone, it was the consequence of closure of the Head Office at Chennai and shifting the operations to the office at Bangalore. The fact remains, these employees had challenged the termination and sought for reinstatement at Karaikal factory, run by the subsidiary company of their employer M/s. Henkel India Limited, a unit where predominant production activity was carried and their administrative skill not required. Having found that the relief of reinstatement in a different establishment, after closure of the establishment in which they served cannot be sought, the relief been amended for grant of severance compensation. Under Section 25FF of the Industrial Disputes Act, severance compensation is payable only if the workman retrenched on account of transfer of undertaking. Under Section 25F, the computation of the compensation shall be 15 days wages for every completed year of service. It will not apply in cases of closure of undertaking for the administrative reasons.

(c) The third fallacy is the application of the principle 'legal fiction' to construe the "termination" simpliciter as 'retrenchment on transfer of undertaking'. The Appellate Authority has lost sight of the fact that in this case, the establishment at Chennai was closed and no operations from Chennai carried on after the amalgamation. The identity of the erstwhile Management

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changed. As per the terms of the appointment, three months salary paid to all these employees besides additional amount as *ex-gratia*.

39. Yet another flaw, we notice in the order of the Appellate Authority is that the operations of the Corporate Office at Chennai closed and shifted to Bangalore. However, the claim of these 11 employees to draw parity with the employees who were transferred to the Karaikal factory and later terminated and settled in terms of 12(3) settlement and 18(1) settlement was accepted by the Appellate Authority on the doctrine of 'Functional integrality'. To apply the doctrine of functional integrality, the foremost requirement is the unity of ownership, management and control. Between the two units there must be a rule or practice of transferring from one unit to another and a common seniority among the employees. To hold that, "Functional Integrality" existed with the establishment at Karaikal and the Chennai Head Office, the employees ought to have satisfied the test of a) Interdependency, which means, one unit cannot survive without the other unit in respect of finance and operation. b) Unity of ownership, control and employment.

40. In the instant case, there is no evidence of interdependency to apply the doctrine of functional integrality. The Learned Single Judge had

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failed to examine the order of Appellate Authority in the light of the law and facts. Relying on the disputed fact regarding the Management conceded for 65 days severance compensation and relying on the terms of settlement between the workers in the Factory at Karaikal, severance compensation fixed with reduced rate of interest purely on equity sans law and facts. The Learned Judge, after holding that these employees will not fall within the definition of 'Workman', nevertheless modified the award fixing 65 days wages per completed year of service as compensation with 6% interest. To this conclusion, there is no plausible reason.

41. In view of the above discussion, the answers to the questions framed are as below:

(i) The employees, who are respondents in the appeals filed by the Management, are not Workmen as per the definition of Section 2(s) of the Industrial Disputes Act.

(ii) The compensation paid to them is as per the terms of appointment and promotion letters. While considering the adequacy of compensation, we find that under Section 41(2-B) of Tamil Nadu Shops and Establishment Act, the Appellate Authority is empowered to direct the Management to pay

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compensation in lieu of reinstatement. This provision, came into effect on 01.04.2017, much after the termination order which is the subject matter of these Writ Appeals. Even assuming that the said provision is to be taken into consideration for extending the benefits to the employees, the said compensation must be a fit compensation in the circumstances of the case. For the said purpose, we can conveniently borrow the provisions under Section 25-F of Industrial Disputes Act, which says in case of retrenchment of a workman, 15 days average pay of every completed year of service to be paid. Therefore, in any case fixing 65 days pay for every year of completed service does not fit either on facts or law. We, therefore, hold that the compensation paid is slightly above the terms of the service conditions. At the same time, the fixation of severance compensation on a higher side par with the workman of M/s.Henkel India Limited is unjust and improper, since their status and character are not the same. The adoption of the principle of 'functional integrality' in this case is an apparent error of facts and is not sustainable.

42. As a result, the order of the Appellate Authority (Deputy Commissioner of Labour), dated 16.12.2015 and the common order passed by the Learned Single Judge in W.P.Nos.8323 to 8344 of 2016, 30373 & 30380 of

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2018, dated 19.07.2023 are set aside.

43. The Employees are given liberty to seek for difference in the compensation i.e., 15 days salary per year of completed service. If any request from the employees to that effect made within 30 days from the date of receipt of this order, same to be considered and paid along with 9% interest from the date of termination till the date of this order as gesture of goodwill towards its former employees since same will be in tune with Section 25F of the Industrial Disputes Act and Section 41 (2-B) of the Tamil Nadu Shops and Establishment Act.

44. In fine, the Writ Appeals filed by the Management and the Writ Appeals filed by the Employees are disposed of in terms of the above direction. There shall be no order as to costs. Consequently, the connected Miscellaneous Petitions are closed.

(**Dr. G.JAYACHANDRAN, J.**)&(**E. MANOHARAN, J.**)
03-09-2026

Index :Yes.
Neutral Citation :Yes/No.
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Dr. G.JAYACHANDRAN, J.
&
E. MANOHARAN, J.
bsm

Pre-Delivery common judgment made in
W.A.No.2952 of 2023,
W.A.Nos.2960, 2938, 2939, 2940, 2941, 2943, 2944, 2945, 2946, 2948, 2949, 2950, 2951, 2953, 2954, 2955, 2956, 2957, 2958, 2959 & 2962 of 2023
and
W.A.Nos.2664, 2669, 2662, 2663, 2665, 2666, 2667, 2668, 2670, 2671, 2672 & 2673 of 2026
&
C.M.P.Nos.24435, 24433, 24451, 24453, 24456, 24459, 24460, 24463, 24471, 24472, 24474, 24475, 24478, 24479, 24484, 24488, 24499, 24555, 24439, 24442, 24447, 24448 of 2023, C.M.P.No.19696 of 2025

Judgment delivered on
03-09-2026

https://www.mhc.tn.gov.in/judis (Uploaded on: 03/09/2026 07:04:15 pm)