

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:05-02-2015

CORAM:

THE HONOURABLE MR. JUSTICE SATISH K. AGNIHOTRI
AND
THE HONOURABLE MR. JUSTICE M. VENUGOPAL

W.A. No.113 of 2015

J. Balasubramanian

Appellant/ Petitioner

Vs

1 The Government of Tamil Nadu
represented by its Secretary
Labour and Employment Department
Secretariat
Chennai 600 009

2 The Deputy Secretary
Labour and Employment Department
Secretariat
Chennai 600 009

3 The Chief Inspector of Factories
(Inspection and Administration)
Chepauk
Chennai 600 005

4 The General Manager - HR
Personnel and Administration
Bharat Heavy Electricals Ltd.
Thiruchirappalli - 620 014

Respondents/ Respondents

Writ Appeal preferred under Clause 15 of the Letters Patent
challenging the order dated 07.02.2013 passed in W.P. No.3091 of
2013.

prayer in W.P.No.3091 of 2013:- Writ petition is filed under
rticle 226 of the constitution of India for issuance of a writ of
mandamus calling for the records relating to the impugned
proceedings dated 10.12.2012 in Letter No.32024/M2/2012 of the 2nd
respondent herein quash the same and consequential direction
directing the respondents to furnish the information and document
sought by the petitioner under the RTI Act vide his application
dated 12.9.2007.

For appellant Mr.S. Arunachalam for Arunachalam Associates

For RR 1-3 Mr. P.S. Sivashanmugasundaram
Special Government Pleader

For R4 Mr. A.V. Arun

JUDGMENT

(Order of the Court was made by SATISH K. AGNIHOTRI, J.)

The instant writ appeal is directed against the order dated 07.02.2013 passed by the Writ Court in W.P. No.3091 of 2013.

2 Before the Writ Court, the appellant/writ petitioner questioned the legality and validity of the communication dated 10.12.2012 from the second respondent, viz., Deputy Secretary, Labour and Employment Department, whereunder, he was informed pursuant to his petition dated 17.10.2012 filed under the Right to Information Act, 2005, (for short "the Act") that the details about the Welfare Officers notified in Bharat Heavy Electricals Ltd., Trichy, during the period from 1967 to 16.12.1987 were not available in the office of the Chief Inspector of Factories and thus, the same could not be furnished.

3 The learned counsel for the appellant/writ petitioner questions the non-supply of the information as sought by the appellant/writ petitioner on the ground that the said information was in the nature of permanent records and as such, there was no reason to misplace or destroy the said records. Thus, the officers ought to have been directed to trace the records and make the same available to the appellant/writ petitioner.

4 The Writ Court, after affording an opportunity of hearing to the other side, came to the conclusion that no direction to supply such information can be given, as the same is not available with the concerned department.

5 We do not find any infirmity in the order of the Writ Court, whereunder, the request of the appellant/writ petitioner to supply the aforesaid documents was rejected on account of non-availability of the same. If the relevant documents which are old and have been misplaced, are not traced out, no such direction can be issued in this writ petition.

6 As regards the second submission of the appellant/writ petitioner that a direction be given to take action against the authorities, the said direction cannot be issued in this writ petition, as this writ petition arises from the communication, whereunder, the information sought by the appellant/writ petitioner could not be made available on account of non-availability of

records. For this purpose, the appellant/writ petitioner may work out his remedies, if so advised, under the provisions law, in the manner known.

7 Resultantly, the writ appeal is dismissed. However, liberty is reserved to the appellant/writ petitioner to take recourse to the other remedy available under the provisions of law in respect of the second contention. No costs. Connected Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

cad

To

- 1 The Secretary
Labour and Employment Department
Government of Tamil Nadu
Secretariat, Chennai 600 009
- 2 The Deputy Secretary
Labour and Employment Department
Secretariat, Chennai 600 009
- 3 The Chief Inspector of Factories
(Inspection and Administration)
Chepauk, Chennai 600 005
- 4 The General Manager - HR
Personnel and Administration
Bharat Heavy Electricals Ltd.
Thiruchirappalli - 620 014

- 1 cc to M/s.B. Arunachalam Associates Advocate, sr. 6481
1 cc to Mr.A.V. Arunan, Advocate, sr. 6287
1 cc to Government pleader, sr. 6348

W.A. No.113 of 2015

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