

IN THE HIGH COURT OF JUDICATURE AT MADRAS

CAV ON : 17/12/2014

DATED : 09/09/2015

CORAM

THE HONOURABLE MR.JUSTICE C.S.KARNAN

W.P.No.30608 of 2014 &
M.P.No.1 of 2014

and

W.P.No.29601 of 2014 &
M.P.No.1 of 2014

W.P.No.30608 of 2014

Covai District New Democratic Labour Front-
Represented by its General Secretary,
(Reg.No.1241/06),
No.137, First Floor, K.R.R.Complex,
Thadakam Road, KNG Pudur (Branch),
Coimbatore - 641 108.

.... Petitioner

Vs.

1. Government of Tamil Nadu,
Represented by its Secretary,
Labour and Employment Department,
Fort St.George,
Chennai - 600 009.
2. The Joint Director of Industrial Safety and Health-Zone I,
(Authority under the Tamil Nadu Industrial Establishments
(Conferment of Permanent Status to Workmen) Act, 1981)
Office of the Inspector of Factories,
Thalaivasal Campus, Cross Cut Road (North Covai),
Coimbatore - 641 012.
3. The Management,
CRI Pumps (P) Ltd.,
122-B, Athipalayam,
Chinna Vedampatti,
Ganapathy, Coimbatore - 641 006.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for a Writ of Mandamus to direct the third respondent to implement the Award dated 20.10.2014 in No.AA.238/2013 passed by the second respondent Authority under the Tamil Nadu Industrial Establishment (conferment of permanent status to workmen) Act, 1981.

W.P.No.29601 of 2014

M/s.C.R.I. Pumps (P) Ltd.,
Unit C.R.I. Pumps,
Rep. by its Manager,
Mr.G.Srinivasan,
122-B, Athipalayam Road,
Chinnavedampatti,
Coimbatore - 641 049.

... Petitioner

Vs.

1.The Joint Director of Industrial Safety and Health,
Division-I,
Thalaivasal Complex,
Coimbatore - 641 012.

- 2.Mr.Chandrasekar
- 3.Mr.R.Senthilkumar
- 4.Mr.T.K.Balajikarthik
- 5.Mr.P.Nagendrakumar
- 6.Mr.R.Sundaramoorthy
- 7.Mr.S.Ramesh
- 8.Mr.R.Saravanan
- 9.Mr.A.Vigneswaran
- 10.Mr.S.Kuppusamy
- 11.Mr.S.Maheshkumar
- 12.Mr.J.Ravikumar
- 13.Mr.S.Mohanraj
- 14.Mr.M.Dhanraj
- 15.Mr.G.Shreekumar
- 16.Mr.N.Sureshkumar
- 17.Mr.A.Mayurkumar
- 18.Mr.R.Manikandan
- 19.Mr.R.Lakshmanan
- 20.Mr.L.Ragunathan
- 21.Mr.P.Madhankumar
- 22.Mr.S.Anandhan
- 23.Mr.M.P.Saravanan
- 24.Mr.K.Kannan

25.Mr.M.Suresh
26.Mr.V.Subash
27.Mr.R.Govindarajan
28.Mr.T.M.Karthikeyan
29.Mr.A.Sakthivel
30.Mr.S.Gobi
31.Mr.R.Gurusamy
32.Mr.R.Karunakaran
33.Mr.N.Manoj
34.Mr.P.Ramachandran
35.Mr.M.Kathirvel

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for a Writ of Certiorari, to call for the records of the first respondent in Application No.A238/2013 and quash its order dated 20.10.2014.

For Petitioner : Mr.R.Sankarasubbu for
Mr.S.Parthasarathy in W.P.No.30608
of 2014 & Respondents 2 to 13, 15 to 35
in W.P.No.29601 of 2014

For Respondents : Mr.S.Ravindran for R3 in
W.P.No.30608 of 2014 and
petitioner in W.P.No.29601 of 2014

Mr.V.Shanmugasundar
Government Advocate for
R1 in W.P.No.29601 of 2014 &

R1 and R2 in W.P.No.30608 of 2014

C O M M O N O R D E R

The petitioner in W.P.No.30608 of 2014 is the General Secretary, Covai District New Democratic Labour Front / Union. The petitioner in W.P.No.30608 of 2014 is hereinafter called as "Union". The petitioner in W.P.No.29601 of 2014 is C.R.I. Pumps (P) Ltd., Coimbatore / Management. The petitioner in W.P.No.29601 of 2014 is hereinafter called as "Management".

2. The Union has filed the writ petition in W.P.No.30608 of 2014 to implement the Award dated 20.10.2014 in No.AA.238/2013 passed by the Joint Director of Industrial Safety and Health-Zone I under the Tamil Nadu Industrial Establishment (conferment of permanent status to workmen) Act, 1981. The Management has filed the writ petition in W.P.No.29601 of 2014 to quash the order passed by the Joint Director of Industrial Safety and Health-Zone I

under the Tamil Nadu Industrial Establishment (conferment of permanent status to workmen) Act, 1981, in Application No.A238/2013, dated 20.10.2014.

3. The Union submits they are registered under the Trade Unions Act, 1926 and its registration number is 1241/06. There are about 155 employees working in the Management. Of this 147 are members of the petitioner Union. The Management is in existence from the year 1946. It is submitted that though the Management is consistently making profit, the employees are being paid very meager wages. Further, the employees were exploited and their grievances were not settled. Therefore, the employees became members of the petitioner-Union, so that it can negotiate and settle the issue with the Management. The formation of the Union was informed to the Management on 22.04.2012. The formation of the Union was not liked by the Management. The various demands submitted by the Union were not considered by the Management and the Union already raised Industrial Disputes regarding general charter of demands and bonus.

4. The Union submits that even though many workmen are involved in the production process of the Management factory for many years, they were not given permanency. In these circumstances, the Union requested the Management to confirm the services of workmen, unfortunately, the Management denied the same. Hence, the petitioner's Union approached the Joint Director of Industrial Safety and Health-Zone I on 21.01.2013 along with the supportive petitions filed by the concerned workmen to confirm their services from the date of completion of 480 days from their initial joining in the Management-factory. The Union further submits that during the pendency of the case before the Joint Director of Industrial Safety and Health-Zone I, some workmen, due to their family circumstances and because of their personal reasons, were relieved from their employment from the Management. Hence, the petitioner's Union withdrew some of the workmen's claim from the case before the Joint Director of Industrial Safety and Health-Zone I.

5. The Union further submits that the Management appeared before the Joint Director of Industrial Safety and Health-Zone I, through their Advocates and conducted the case in a full fledged manner. The Management never admitted the case of the petitioner's Union in their counter and as well as in their written submissions. Even the Management admitted the plea of workmen for confirmation but the Management had taken a stand before the Joint Director of Industrial Safety and Health-Zone I, that some of the workmen have been treated as permanent workers by the Management. The Union further submits that it is an admitted fact that some workmen were never paid wages and benefits which are entitled for permanent

workmen by the Management at any point of time. The Joint Director of Industrial Safety and Health-Zone I, after conducting a detailed enquiry in very fair and proper manner was pleased to allow the request of the petitioner's Union and directed the Management to confirm the service of the workmen by his order dated 20.10.2014. Thereafter, the Union requested the Management on 25.10.2014 to implement the Award, but the Management failed to comply with the Award of the Joint Director of Industrial Safety and Health-Zone I, till date without any reason. Hence, the petitioner-Union has approached this Court to protect the legitimate rights of the workmen.

6. The Union further submits that the Management with an intention to leave the employees high and dry has now planned to push the employees jobless. To make matters worse, the Management is now all set to discontinue the workmen who are in the regular rolls and given permanency by the order of Joint Director of Industrial Safety and Health-Zone I and as the result, makes the Award of the Joint Director of Industrial Safety and Health-Zone I, become meaningless. The intention of the Management is to render some of the workmen jobless and do the manufacturing activity by engaging contract labour. The act of the Management, is void and without semblance of legal proceedings. Hence, the Union entreats the Court to allow the writ petition in W.P.No.30608 of 2014.

7. The highly competent counsel Mr.R.Sankarasubbu appearing for the Union submits that the petitioner's Union has been registered under the Trade Unions Act. There are about 155 employees working in the Management. The Management is engaged in manufacture of motor pumps for agricultural consumers. The said Management is functioning from the year 1946. The Management has not paid adequate salary, bonus and other admissible allowances to the employees. Hence, the Union raised Industrial Disputes. Many of the employees were not given permanency even after making of several demands. Therefore, the Union had approached the Joint Director of Industrial Safety and Health-Zone I to confirm the service of the employees as permanency since all the employees have completed 480 days of continuous service without any break. When the matter is pending before the Joint Director of Industrial Safety and Health-Zone I, some of the workmen were relieved from their employment due to various circumstances. The Joint Director of Industrial Safety and Health-Zone I had conducted a comprehensive enquiry with the Union and Management. The workmen were not paid wages and the benefits which are entitled for permanent workmen by the Management. Therefore, the Joint Director of Industrial Safety and Health-Zone I, after considering the averments of both sides and perusal of connected documents, confirmed the service of the workmen by his order dated 20.10.2014.

The said award had not been complied with by the Management. Hence, the Union requested the Management to implement the said award, but in spite of it, the Management had not complied with the order passed by the Joint Director of Industrial Safety and Health-Zone I. Hence, the highly competent counsel entreats the Court to give direction to the Management to implement the said award.

8. The highly competent counsel Mr.S.Ravindran appearing for the Management submits that the Management is functioning at Chinna Vedampatti, wherein 155 employees are working, but no Union was functioning. However, the permanent workmen are paid wages and other benefits based on their experience, educational qualification. The wage fixation and other payment benefits are done as per the various settlement entered into between the Management and workmen. Further, the workmen were also extended various statutory benefits coverage under the ESI Act and EPF Act. Further, the workmen were treated as permanent workmen and they were paid wages. The workmen's grievances are that they were being paid lesser wages when compared to other workmen working in the Management. From the date of joining of the workmen, ESI, EPF contributions are being remitted by the Management. Further, all the workmen are receiving wages as per the Settlement dated 26.03.2012, which has been made between the Management and the workforce. Further, the Management is paying wages on the basis of permanent status. Further, all the employees are paid wages which are higher than the wages fixed by the Government. Hence, the highly competent counsel entreats the Court to quash the order dated 20.10.2014 in Application No.A238/2013, passed by the Joint Director of Industrial Safety and Health-Zone I.

9. The highly competent Government Advocate Mr.V.Shanmugasundar appearing for the first and second respondents in W.P.No.30608 of 2014 and first respondent in W.P.No.29601 of 2014 submits that the Joint Director of Industrial Safety and Health-Zone I, had conducted a comprehensive enquiry and passed the award in favour of the workforce. The said award is in force. Further, the said award is suitable for execution against the Management. The Management has been wantonly and deliberately refusing to execute the award dated 20.10.2014.

10. On considering the facts and circumstances of the case and arguments advanced by the highly competent counsels on all sides and on perusing the typed-set of papers, this Court is of the view that the Joint Director of Industrial Safety and Health-Zone I had passed award on 20.10.2014 and directed the Management to confirm the services of 34 employees in permanent nature. The said findings has been decided on merits in the presence of both parties. Therefore, this Court directs the Management to implement

the award dated 20.10.2014 in AA.238/2013 passed by the Joint Director of Industrial Safety and Health-Zone I, under the Tamil Nadu Industrial Establishment (conferment of permanent status to workmen) Act, 1981, within a period of 30 days from the date of receipt of a copy of this order. The same issue has been challenged by the Management by way of filing writ petition in W.P.No.29601 of 2014. Since the issue has been decided in favour of the Union, the writ petition in W.P.No.30608 of 2014, filed by the Union, after a comprehensive review is allowed and the writ petition in W.P.No.29601 of 2014, filed by the Management, is dismissed. There is no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
Government of Tamil Nadu,
Labour and Employment Department,
Fort St.George,
Chennai - 600 009.
2. The Joint Director of Industrial Safety and Health-Zone I,
(Authority under the Tamil Nadu Industrial Establishments
(Conferment of Permanent Status to Workmen) Act, 1981)
Office of the Inspector of Factories,
Thalaivasal Campus, Cross Cut Road (North Covai),
Coimbatore - 641 012.

W.P.No.30608 of 2014 &
M.P.No.1 of 2014 and
W.P.No.29601 of 2014 &
M.P.No.1 of 2014

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