

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2015

CORAM

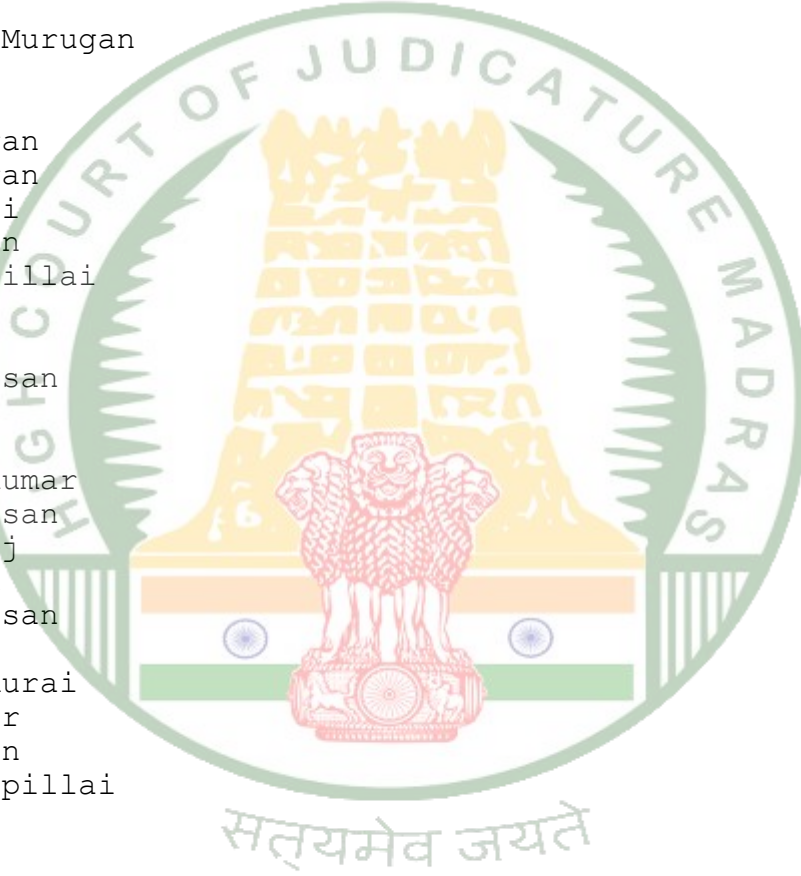
THE HONOURABLE MR.JUSTICE D.HARIPARANTHAMAN

W.P.No.16813 of 2015

And

M.P.No.1 of 2015

- 1.G.Senthil Murugan
- 2.R.Murugan
- 3.K.Prasath
- 4.T.Velmurugan
- 5.M.Velmurugan
- 6.T.Samidurai
- 7.K.Rajendran
- 8.K.Pachaappillai
- 9.B.Selvam
- 10.M.Murugan
- 11.C.Seenuvasan
- 12.P.Mayavan
- 13.K.Shankar
- 14.T.Suriyakumar
- 15.C.Venkatesan
- 16.J.Selvaraj
- 17.R.Prakash
- 18.R.Venkatesan
- 19.J.Manivel
- 20.C.Chinnadurai
- 21.A.Ramkumar
- 22.P.Madhavan
- 23.P.Periyappillai
- 24.K.Murugan
- 25.E.Jayavel
- 26.K.Senthil Murugan
- 27.A.Venkatesan
- 28.R.Rajavel
- 29.D.Ramamoorthy
- 30.A.Sathyamoorthy
- 31.K.Sathyamoorthy
- 32.A.Pachaiyappan
- 33.P.Parthiban
- 34.M.Nagaraj
- 35.V.Annamalai
- 36.P.Albert
- 37.A.Moorthy



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... Petitioners

Vs.

1. The Commissioner of Sugars,
Nandanam, Anna Salai,
Chennai - 35.
 2. The Managing Director,
Kallakurichi - II Coop. Sugar Mills Ltd.,
Kachirapalayam Post, Chinna Salem Taluk,
Villupuram District.
- ... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to regularize the service of the petitioners in the 2nd respondent Coop. Sugar Mills by taking consideration of their uninterrupted long service.

For Petitioners : Mr.C.Prakasam
For Respondents : Mr.R.Bala Ramesh for R1
Additional Government Pleader
Mrs.G.Thilakavathi for R2

O R D E R

Heard both sides. By consent the writ petition is taken up for final disposal.

2.The petitioners are the workmen employed by the second respondent Co-operative Society. According to them, they have rendered long years of service and still they are not regularised in service.

3.When this Court put a question as to how the writ petition is maintainable against the allegation made against the Sugar Mill as it is a Co-operative Society registered under the Tamil Nadu Co-operative Societies Act, the learned counsel for the petitioners submitted that Tamil Nadu Government has made huge investment, however, is not able to give particulars about the investment made.

4.I am of the view that, even if there is some portion of investment made by the Government that would itself will not make it as "State" under Article 12 of the Constitution of India. The learned counsel also admits that the sugar mill is governed by the elected board by the share holders, however I am not going into that question. I am inclined to dismiss this writ petition on the ground that effective alternative remedy is available to the workmen under the Tamil Nadu Industrial Establishment (Confirmment of Permanent Status) Act, 1981.

5.Infact, when the Government issued Government Order that the sugar mill is exempted from the purview of the aforesaid Act, this Court has quashed the said Government Order.

6.Furthermore, the workmen/ petitioners numbering 37, themselves could raise an Industrial Dispute under Section 2k of the Industrial Disputes Act claiming permanent status and keeping workmen as temporary or daily wage workers for years together is an un-fair labour practice under clause 10 to the Fifth Schedule of the Industrial Disputes Act. This Court while exercising its extraordinary jurisdiction under Article 226 of the Constitution of India cannot go into the factual details and therefore, feels it better to direct the workmen to approach some other forum where the remedy is easily available. The yet another remedy these workmen can avail is the revisional remedy provided under Section 153 of the Co-operative Societies Act.

7.Hence, for all the aforesaid reasons, the writ petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

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s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

1. The Commissioner of Sugars,
Nandanam, Anna Salai,
Chennai - 35.
2. The Managing Director,
Kallakurichi - II Coop. Sugar Mills Ltd.,
Kachirapalayam Post, Chinna Salem Taluk,
Villupuram District.

+ 1 cc to Mr.C.Prakasam, Advocate SR 29354

+ 1 cc to Mrs.G.Thilakavathi, Advocate SR 29208

+ 1 cc to Govt.Pleader SR 28986

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