

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No. 23479 of 2015 &
M.P.Nos. 1 & 2 of 2015

Mr.P.Santhamurthy

...Petitioner

Vs.

1. The Government of Puducherry,
Rep. by its Secretary,
Labour Department,
Puducherry.

2.The Labour Officer (Conciliation)
O/o. Labour Officer (Conciliation),
Labour Department Complex,
Gandhi Nagar, Puducherry.

3.M/s.Swaminathan Research Foundation,
Represented by its Executive Director,
No.6, 3rd Cross Street,
Taramani Institutional Area,
Chennai-600 013.

...Respondents

This petition is filed under Article 226 of The Constitution of India praying to issue a writ of Mandamus to forbear the third respondent from altering the service conditions of the petitioner in any manner including discontinuance of service as Senior Scientist at M.S.Swaminathan Research Foundation or failing to provide employment in any manner without getting permission under Section 33 of the Industrial Disputes Act, 1947, in the Industrial Disputes raised by the petitioner which is pending conciliation before the second respondent as dispute regarding termination of the petitioner's service and further direct the second respondent to conciliate and effect settlement and if no settlement is forthcoming to submit failure report under Section 12(4) of the Industrial Disputes Act and in turn direct the first respondent to refer the dispute for adjudication before the competent Industrial Adjudicator and to set aside the communication of the third respondent date 13.05.2015 ending the petitioner's service on 31.07.2015.

For Petitioner : Mr.Stalin Abhimanyu
For Respondents : M/s.N.Mala for
Addl. Govt. Pleader for R1 and R2
Mr.G.Anand for
M/s.T.S.Gopalan & Sons

ORDER

Heard Mr.Stalin Abhimanyu, the learned Counsel for the petitioner, M/s.N.Mala, learned Additional Government Pleader appearing for respondents 1 and 2 and Mr.G.Anand for M/s.T.S.Gopalan & Company for R3.

2. The petitioner is a Senior Scientist working with the third respondent/Research Foundation, has approached this Court by way of this writ petition, to direct the third respondent not to alter his service conditions without securing permission from the second respondent, who is a Conciliation Officer in view of protection available under Section 33 of the Industrial Disputes Act, 1947.

3. A counter affidavit has been filed by the third respondent along with the typed set of papers. At the time of entertaining this writ petition, this Court by order dated 31.07.2015, granted status quo to be maintained by both the parties for a period of four weeks, which has been subsequently extended. The third respondent has filed a counter affidavit raising all contentions including the maintainability of conciliation proceedings before the second respondent. The learned Additional Government Pleader appearing for the second respondent submitted that though the second respondent has served notice on 05.08.2015, calling upon the third respondent-Management to appear for conciliation, they have sent communication stating that since this writ petition is pending, they are unable to participate. The larger issue, of course to be decided by the second respondent is as to whether he has jurisdiction over the matter and initiate conciliation proceedings and that issue is yet to be decided by the second respondent since the Management has taken a stand refusing to participate in the conciliation on account of the pendency of this writ petition. Since the petitioner has a benefit of an order of status quo since 31.07.2015, this Court is of the view that both the parties should participate in the Conciliation proceedings with liberty to raise all contentions. The learned counsel for the third respondent submits that the third respondent will participate in the conciliation proceedings and raise all contentions including contention regarding jurisdiction of the second respondent.

4. In the light of the above, the writ petition is disposed of by directing the petitioner as well as the third respondent

to appear before the second respondent on the date fixed by the second respondent for which the second respondent shall issue a fresh notice. It is open to both the parties to raise all factual and legal contentions which shall be taken into consideration and decision shall be arrived at, within a period of four weeks from the date of receipt of a copy of this order. The status quo order granted by this Court on 31.07.2015 shall stand vacated. Consequently, the Miscellaneous Petitions, namely M.P.Nos.1 and 2 of 2015 also stands disposed of. No costs.

5. During the course of argument, learned counsel for the third respondent submitted that the establishment in which the petitioner was serving has been disbanded as the project has been closed. In the light of the said submission, a suggestion was put forth to the learned counsel for the petitioner as to whether the petitioner would be willing to work in any other establishment of the same organization. On instructions, learned counsel for the petitioner submits that the petitioner is willing to work in any establishment in any part of the country of the third respondent-Foundation. This submission is placed on record which can be considered at the time of Conciliation proceedings.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

rms/kal

To

1. The Government of Puducherry,
Rep. by its Secretary,
Labour Department,
Puducherry.

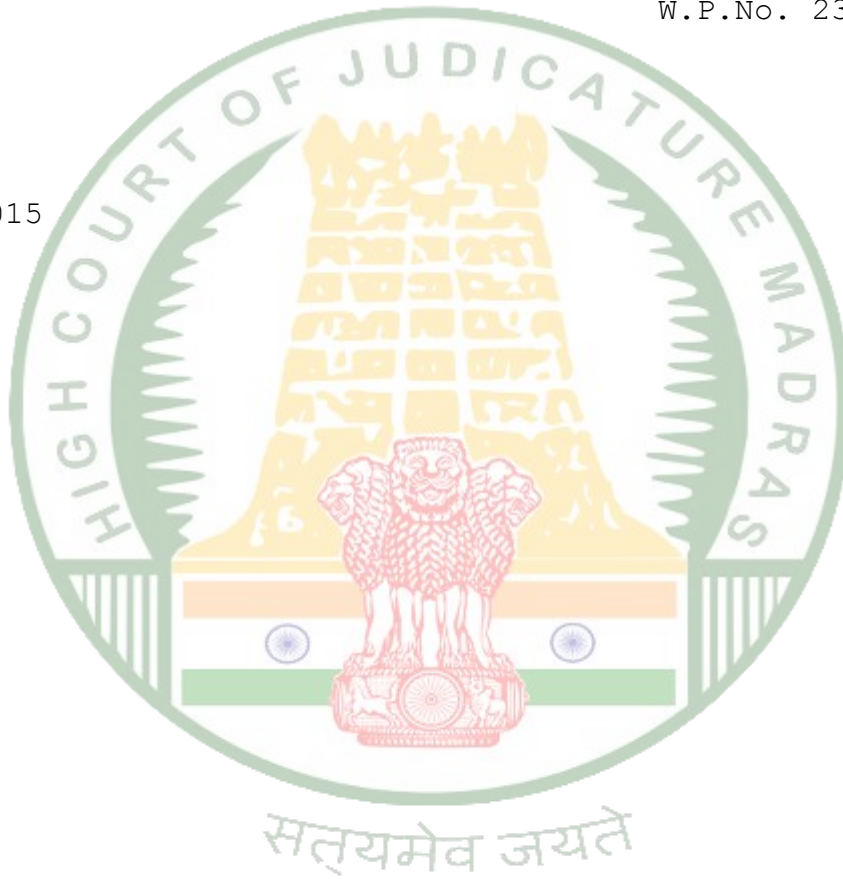
2. The Labour Officer (Conciliation)
O/o. Labour Officer (Conciliation),
Labour Department Complex,
Gandhi Nagar, Puducherry.

3.M/s.Swaminathan Research Foundation,
Represented by its Executive Director,
No.6, 3rd Cross Street,
Taramani Institutional Area,
Chennai-600 013.

+1 cc to Mr.T.S.Gopalan, Advocate sr.64482
+1 cc to Government Pleader sr.64756

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