

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.03.2015

CORAM :

THE HONOURABLE MR. JUSTICE T. RAJA

W.P.NO. 10982 OF 2003

and

WPMP No.13803 of 2003

V. Vedavalli

.. Petitioner

Vs.

1. Tidel Park Limited
(Promoted by TIDCO & ELCOT)
4, Canal Bank Road
Taramani, Chennai - 600 113.
2. Tamilnadu Poultry Development
Corporation Ltd.,
(TAPCO) A Govt. of Tamilnadu Enterprises
2, Pasumpon Muthuramalinga Devar Salai
Nandanam
Chennai - 600 035.
3. The Government of Tamil Nadu
Rep. by its Secretary
Department of Animal Husbandry
& Fisheries
Chennai - 600 009.
3. The Government of Tamil Nadu
Rep. by its Secretary
Law Department
Fort St. George
Chennai - 600 009.

.. Respondents

PRAYER: Petition has been filed under section 226 of the Constitution of India to issue an order of Writ of Certiorarified Mandamus, calling for the records from the first respondent bearing Ref. No. TIDEL/ ADMN/15/2003 dated 03.03.2003, quash the same and consequently direct the first respondent to continue the petitioner in service with all consequential benefits.

For petitioner : Mr. K.M. Ramesh

For Respondents : Mr. M. Vijayan
for M/s. King & Patridge for R1

: Mr. R. Govindasamy,
AGP for R3 and R4

: No Appearance for R2

O R D E R

This Writ Petition has been filed by Mrs. V. Vedavalli, challenging the impugned order dated 03.03.2003 issued by the Managing Director of TIDEL Park Ltd., the first respondent herein, on the ground that the action of the first respondent is violative of Articles 14, 16 and 21 of the Constitution of India and also running contrary to Section 25G of the Industrial Disputes Act, 1947.

2. The grievance of the petitioner is, after joining the services of Tamil Nadu Poultry Development Corporation Ltd., (TAPCO) as a Steno Typist on 24.06.1978, she got promotion as Grade I Steno Typist on 17.06.1993 and thereafter, on completion of 5 years in the promotional post, she joined in TIDEL Park Ltd., on deputation, as Grade I Steno Typist. In the meanwhile, TAPCO was closed on 29.12.2000 and the petitioner also joined as Private Secretary in TIDEL Park Ltd., in the scale of pay of Rs.6500-200-10500, after being relieved from TAPCO as per the closure order passed by the Government. While she was working as Private Secretary, the impugned order came to be passed on 03.03.2003, issuing three months notice for termination of her service due to rationalisation. Pursuant thereto, the petitioner came to this Court filing this writ petition and, on 09.04.2003, this Court granted interim injunction restraining the TIDEL Park Ltd., the first respondent herein, from giving effect to the impugned order dated 03.03.2003. Subsequently, the interim order was confirmed by this Court on 30.04.2003, keeping the Writ Petition pending. Now, the petitioner is about to reach the age of superannuation at the end of this month ie., on 30.04.2015. That apart, the petitioner's husband, who was also serving in the erstwhile Tamil Nadu Poultry Development Corporation Ltd., died-in-harness.

3. In the above background, Mr. K.M. Ramesh, learned counsel appearing for the petitioner submitted that, being a widow, the petitioner would not be in a position to continue her livelihood, if the order dated 03.03.2003 is given effect to. Inter alia, he has also submitted that even though the first respondent, being a Joint Venture Company, have taken a policy for rationalisation, they cannot terminate the services of the petitioner to their whims and fancies, as any such action runs contrary to Articles 14 and 16 of the Constitution of India as well as Section 25 D of the Industrial

Disputes Act.

4. Mr. M. Vijayan, learned counsel appearing for the first respondent, while heavily contending that the claim about the first respondent's status as an Instrument of the State is far from acceptance, would submit that the first respondent has constructed its IT Park at Taramani and that, while 22% of the building has been sold out to private companies during the year 2000, the remaining 78% of the space, which is presently owned by the company, is leased out to the IT concerns on commercial terms. That apart, TIDEL has been engaging around 2000 persons on contract basis for carrying out various operations and maintenance works, namely, House Keeping, Fire and Security services, Operation and Maintenance of building/equipments such as Electrical and Mechanical, etc. on commercial basis. In addition thereto, the total business of TIDEL is monitored by an independent Board consisting of Board of Directors nominated by equity holders, TIDCO, LIC, Indian Bank, State Bank of India, and Hyundai and the total equity paid up capital of Rs.44,00,00,000/- of TIDEL is held by the following companies :

S. No.	Particulars	Percent of total paid up capital
1.	TIDCO	24.43%
2.	ELCOT	4.55%
3.	LIC	6.25%
4.	State Bank of India	11.36%
5.	Indian Overseas Bank	6.82%
6.	Indian Bank	11.36%
7.	Canara Bank	5.68%
8.	Central Bank of India	2.27%
9.	Hyundai Engineering and Construction	9.09%
10.	Larsen & Toubro	9.09%
11.	ETA Engineering Limited	4.55%
12.	Infrastructure Lease and Financial Services Limited	4.55%
	Total	100.00%

The above table pertaining to TIDEL, being a commercial organisation, does not have any reference to the pay scales as in the case of employees of the State and Public Sector Undertakings, therefore, it is not open at all for the petitioner to say that the first respondent is an Instrument of the State, he argued.

5. Heard the learned Additional Government Pleader appearing for the respondents 3 and 4.

6. But two factors outweigh before this Court from going into the merits of the submissions made by the learned counsel for the first respondent. Firstly, the petitioner, who had originally joined the services of the Tamil Nadu Poultry Development Corporation Ltd. on 24.06.1978, after the said Corporation's closure, become an employee of the TIDEL Park Ltd., the first respondent herein, on deputation as Grade I Steno Typist on 15.07.1998 and continued to serve there, on regular scale and secondly, after the petitioner was served with three months notice for termination on 03.03.2003, while entertaining the writ petition filed by her, this Court granted interim injunction not to terminate her services until further orders and, by virtue of that order, the petitioner continued in service and now, she is going to reach the age of superannuation on 30.04.2015. In view of these two aspects, this Court is of the view that, at this distance of time, no useful purpose would be served in going into the issue as to whether the first respondent is an Instrumentality of State, when the petitioner is to make her exit on 30.04.2015. Further, learned counsel appearing for the first respondent also submitted that, having continued in service for a long period in view of the interim orders issued by this court, as an exceptional case, she can be allowed to retire as an employee of TIDEL Park Ltd.

7. By recording the statement of learned counsel appearing for the first respondent that R-1 would allow the petitioner to retire as an employee of the TIDEL Park Ltd. with all service benefits, without delving into the issue relating to the status of the first respondent, whether it is an instrumentality of the State or not, the Writ Petition is disposed of. Consequently, the connected M.P is closed. No order as to costs.

सत्यमेव जयते -s/d-

Assistant Registrar

True Copy

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Sub-Assistant Registrar

avr

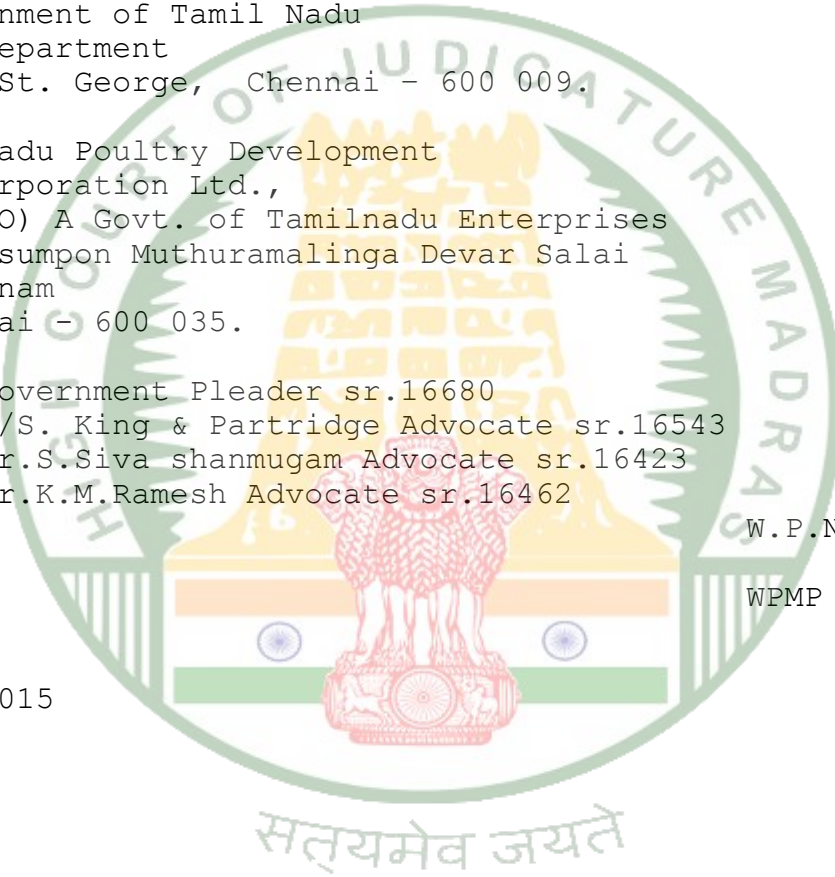
To

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+1 cc to Government Pleader sr.16680
+2 cc to M/S. King & Partridge Advocate sr.16543
+1 cc to Mr.S.Siva shanmugam Advocate sr.16423
+1 cc to Mr.K.M.Ramesh Advocate sr.16462

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vsn(co)
prk 28/4/2015



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