

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.Nos.15971, 16601 & 16802 of 2001

W.P.No.15971 of 2001:

N.L.C. Labour and Staff Union
(CITU) (Regd.No.1803)
rep. by its General Secretary
I.Sangilipandian
Block No.24,
Neyveli 607 801 ... Petitioner

-vs-

1. The Management of Neyveli
Lignite Corporation rep. by its
Chairman cum Managing Director
Neyveli-2
2. The Neyveli Lignite Corporation
Employees Provident Fund Trust
rep.by its President
Neyveli-2
3. The Regional Commissioner
The Employees Provident Fund (Tamil Nadu)
20, Royapettah High Road
Chennai-14
4. NLC Workers Progressive Union
rep.by its General Secretary R.Gopalan
Neyveli
(R4 impleaded as per order dated 25.9.02
in W.P.M.P.No.34338 of 2002) ... Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, to direct the respondents to elect the representatives of the employees on the Board of Management of the second respondent Trust as per its Rules and the terms of exemption under Section 17 of the Employees Provident Fund and Miscellaneous Provisions Act, 1952.

For Petitioner

:: Mr.V.Govardhanan for
M/s Row & Reddy

For Respondents

:: Mr.N.Nithiyanandam for
R1 & R2
Mr.V.Vibhishanan for R3
Mrs.A.V.Bharathi for R4

W.P.No.16601 of 2001:

P.Arul

.. Petitioner

-vs-

1. The Management of Neyveli
Lignite Corporation rep.by its
Chairman cum Managing Director
Neyveli-2
2. The Neyveli Lignite Corporation
Employees Provident Fund Trust
rep.by its President
Neyveli-2
3. Government of India rep.by its Secretary
Labour Department
Shram Sakthi Bhavan
New Delhi
4. The Regional Commissioner
The Employees Provident Fund (Tamil Nadu)
20, Royapettah High Road
Chennai-14
5. NLC Workers Progressive Union
rep.by its General Secretary R.Gopalan
Neyveli
(R5 impleaded as per order dated 25.9.02
in W.P.M.P.No.34315 of 2002)

... Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Declaration, declaring that the action of the first respondent Management in choosing the Employees representatives by nomination from the recognised Trade Union in pursuance to the amendment to para 79-C of the EPF Scheme w.e.f. 9.7.92 which itself is illegal, unconstitutional and in violation of Article 14 of the Constitution of India as illegal, unconstitutional

and amounting to unfair labour practice and for consequently directing the respondents to elect the representatives of the employees on the Board of Management of the second respondent Trust as per the terms of the judgment dated 20.09.1989 of a Division Bench of this Hon'ble Court in Writ Petition No.10538 of 1982 read with Section 17 and para 79-C of the EPF Act.

For Petitioner :: Mr.V.Govardhanan for
M/s Row & Reddy

For Respondents :: Mr.N.Nithiyanandam for
R1 & R2
Mr.V.Kadhirvelu
Central Government Counsel
for R3
Mr.V.Vibhishanan for R4
Mrs.A.V.Bharathi for R5

W.P.No.16802 of 2001:

N.Somasundaram .. Petitioner

-vs-

1. The Management of Neyveli
Lignite Corporation Ltd., rep.by its
Chairman cum Managing Director
Neyveli-1, Cuddalore District
2. The Neyveli Lignite Corporation
Employees Provident Fund Trust
rep.by its President
Neyveli, Cuddalore District
3. The Regional Commissioner
The Employees Provident Fund
Tamil Nadu & Pondicherry
20, Royapettah High Road
Chennai 600 014
4. NLC Workers Progressive Union
rep.by its General Secretary R.Gopalan
Neyveli
(R4 impleaded as per order dated 25.9.02
in W.P.M.P.No.34312 of 2002) .. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the respondents to conduct a secret ballot in order to elect the four employees representatives to the Neyveli Lignite Corporation Employees Provident Fund Trust.

For Petitioner :: No appearance

For Respondents :: Mr.N.Nithiyanandam for
R1 & R2
Mr.V.Vibhishanan for R3
Mrs.A.V.Bharathi for R4

ORDER

W.P.No.15971 of 2001 has been filed by N.L.C. Labour and Staff Union represented by its General Secretary seeking a writ of mandamus, to direct the respondents to elect the representatives of the employees on the Board of Management of the second respondent Trust as per its Rules and the terms of exemption under Section 17 of the Employees Provident Fund and Miscellaneous Provisions Act, 1952.

2. W.P.No.16601 of 2001 has been filed by Mr.P.Arul seeking a writ of declaration, to declare that the action of the first respondent Management in choosing the Employees representatives by nomination from the recognised Trade Union in pursuance to the amendment to para 79-C of the EPF Scheme with effect from 9.7.92 is illegal, unconstitutional and in violation of Article 14 of the Constitution of India, which is also amounting to unfair labour practice and for a consequential direction to the respondents to elect the representatives of the employees on the Board of Management of the second respondent Trust as per the terms of the judgment dated 20.09.1989 of a Division Bench of this Court in Writ Petition No.10538 of 1982 read with Section 17 and para 79-C of the Employees Provident Fund and Miscellaneous Provisions Act.

3. W.P.No.16802 of 2001 has been filed by Mr.N.Somasundaram seeking a writ of mandamus, to direct the respondents to conduct a secret ballot in order to elect the four employees representatives to the Neyveli Lignite Corporation Employees Provident Fund Trust.

4. Opposing the above prayers, the learned counsel appearing for the Management of Neyveli Lignite Corporation Limited, drawing the attention of this Court to paragraph-6 of the counter affidavits, submitted that nothing survives in the writ petitions, since some of the unions filed writ petitions, namely, W.P.Nos.2551 of 1999 etc., which came to be disposed of by this Court vide order dated 12.2.2001

by issuing a direction to the Regional Labour Commissioner to conduct the election by secret ballot within a period of one month and the said order also directed that the trade union getting majority in the election would be recognised by the management as the bargaining agent or negotiating trade union. Accordingly, an election by secret ballot took place on 19.3.2001 in which 15 trade unions including the petitioners herein participated and based on the election by secret ballot, the NLC Workers Progressive Union was certified by the Regional Labour Commissioner as the majority union. He has also further submitted that subsequently two more elections have also been conducted as per the directions of this Court. Therefore, when the elections by secret ballot had been conducted as per the directions given by this Court in W.P.Nos.2551 of 1999 etc., dated 12.2.2001, nothing survives in the writ petitions.

5. Recording the submission that the elections by secret ballot had been conducted as per the directions of this Court in W.P.Nos.2551 of 1999 etc., dated 12.2.2001 and based on the elections through secret ballot, the respondent-NLC Workers Progressive Union has been certified by the Regional Labour Commissioner as the majority union, these writ petitions are dismissed as infructuous. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Chairman cum Managing Director
Neyveli Lignite Corporation Limited
Neyveli-2

2. The President
Neyveli Lignite Corporation
Employees Provident Fund Trust
Neyveli-2

3. The Secretary to Government of India
Labour Department
Shram Sakthi Bhavan
New Delhi

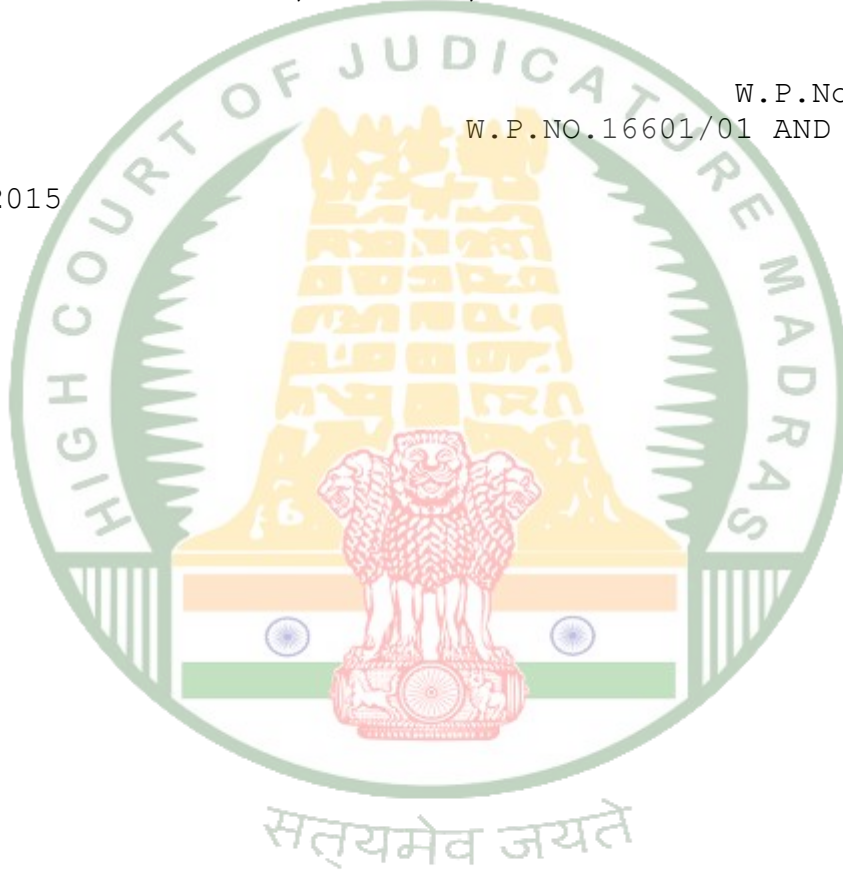
4. The Regional Commissioner

The Employees Provident Fund (TN & Pondicherry)
No.20, Royapettah High Road
Chennai 600 014.

- 3 cc to Mr.N.A.K.Sarma ,Advocate, SR.No.10281, 10282, 10274/2015
2 cc to M/s Row & Reddy ,Advocate, SR.No.10381, 10380/15
1 cc to Mr.V.Kandhirvel ,Advocate, SR.No.10083/15
1 cc to Mr.V.Vibhishanan ,Advocate, SR.No.10079/15
1 cc to Mrs.A.V.Bharathi ,Advocate, SR.No.10048/15

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W.P.Nos.15971 of 2001
W.P.NO.16601/01 AND W.P.NO.16802/01.



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