

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 01.08.2016

Coram:

The Honourable Mr.SANJAY KISHAN KAUL, CHIEF JUSTICE
and
The Honourable Mr.Justice R.MAHADEVAN

W.P.No.3967 of 2011

P.Mani

... Petitioner

Versus

1. The Secretary to Government
Labour Welfare Department,
Fort St.George, Chennai 600 009.

2.The Commissioner of Labour,
Teynampet,
Chennai 600 018.

3.The District Collector,
Nilgiris District.
The Nilgiris.

4.The Management,
Mahavir Plantations Pvt. Ltd.
Naduvattam
Nilgiris.

5.The Joint Commissioner of Labour,
Coimbatore,

6.The Regional Provident Fund Commissioner,
Chennai Region,
Royapettah,
Chennai 600 014.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issue of a writ of Certiorarified Mandamus, calling for the records of the 5th respondent made in 19562/2005 dated 02.07.2010 quash the same and consequently direct the respondents to recover the amount due to the workmen towards Wages, Provident fund, Gratuity, Bonus and other benefits from the Management, disburse the same to the workmen.

For Petitioner ::: Mr.Srinath Sridevan
For Respondents ::: Mr.T.N.Rajagopalan
Special Government Pleader
for R.1 to R.3 and R.5
Mr.P.Sukumar for R.4
Mr.V.Vibhishanan for R.6

O R D E R

(The Order of the Court was made by The Hon'ble The
Chief Justice)

The petitioner, who is alleged by the management of Mahavir Plantations Private Limited/4th respondent to be a dismissed employee, has filed the present petition as a Public Interest Litigation seeking directions to quash the order of the Joint Commissioner of Labour, Coimbatore/ 5th respondent dated 02.07.2010 and for recovery of amounts on account of various dues towards workmen - Wages, Provident Fund, Gratuity, Bonus etc. be made and disbursed to workmen.

2. The petitioner claims locus to file the present petition by referring to the proceedings in the earlier batch of writ petitions Nos.1362 of 2007 and 4237 of 2005 etc. filed by the petitioner herein which were ordered on 17.09.2009. In the said proceedings, various dues of the 4th respondent, on the basis of affidavits submitted by various statutory authorities, were quantified as the same were not even disputed. The final direction issued in those proceedings was for the competent authority to proceed in accordance with law for recoveries of dues of workmen, particularly with regard to their Provident Fund, Gratuity, Arrears of Wages, Bonus and other dues, if any, to which one or other employee is entitled. If the dues were not paid within the time, it was open for the competent authority to auction sell the lands.

3. We may note the submission of the learned counsel for the 4th respondent that in fact, some properties were auctioned, but those auctions were set aside in the appeal proceedings and the matter is pending in writ proceedings before this Court.

4. On the issue of the order impugned in the present petition dated 02.07.2010, the submission of the learned counsel for the petitioner is that the workers are sought to be relegated to the proceedings before the Labour Court under Section 33-C (2) of the Industrial Disputes Act, 1947, (hereinafter referred to as 'the said Act'). It is his submission that the Joint Commissioner of Labour is, in fact, required to look into that aspect and issue certificates of dues for proceeding under Section 33-C (1) of the said Act, in view of the earlier writ proceedings. It is thus submitted that the impugned order cannot be sustained and the matter would have to be looked into afresh. We may however note that qua Wages, proceedings under Section 33-C(1) are stated to be pending.

5. We find force in the submission of the learned counsel for the petitioner in terms of the conspectus aforesaid and thus, we set aside the impugned order dated 02.07.2010 with a direction to pass a fresh order, keeping in mind the aforesaid discussion and the earlier order passed by the Division Bench. The needful be done within a period of four months of the receipt of the order in accordance with law.

6. The writ petition stands allowed, leaving the parties to bear their own costs.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1. The Secretary to Government, Labour Welfare Department,
Fort St.George, Chennai 600 009.

2.The Commissioner of Labour, Teynampet, Chennai 600 018.

3.The District Collector, Nilgiris District, The Nilgiris.

4.The Joint Commissioner of Labour, Coimbatore.

5.The Regional Provident Fund Commissioner, Chennai Region,
Royapettah, Chennai 600 014.

+1 cc to mr.Srinath sridevan, advocate,sr.43741

+1 cc to Mr.V.Vibhishanan, advocate,sr.43725

+1 cc to Mr.P.sukumar, advocate,sr.43586

+1 cc to Govt.Pleader,sr.43786.

scd(co)
krd 17/8

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