

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 16.11.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.A.Nos.1446 to 1457 of 2016
and
C.M.P.Nos.18140 to 18151 of 2016

W.A.No.1446 of 2016

The Food Corporation of India
(South Zone)
Employees Co-operative Society Ltd.
Rep. by its Secretary
No.MSCS/CR-23/92 New No.40
Old No.133 2nd Floor
Veppery High Road Periamet,
Chennai 600 003. Appellant

Versus

1 N.S.Subbulakshmi
Asst. Grade-III
The Food Corporation of India (South Zone)
Employees Co-operative Society Ltd.
No.MSCS/CR-23/92 New No.40
Old No.133 2nd Floor
Veppery High Road, Periamet,
Chennai 600 003. ...1st Respondent in
WA.1446/16

K.VIJAYACHANDRIKA,
ASST. GRADE III, THE FOOD CORPORATION
OF INDIA (SOUTH ZONE), EMPLOYEES CO-OP
SOCIETIES LTD., NO.MSCS/ CR-23/92, N.NO.40,
O.NO.133, 2ND FLOOR,
VEPPERY HIGH RD.,Periamet CH-3. ...1st Respondent in WA.1447/16

V.PONNI,
ASST. GRADE II THE FOOD CORPORATION
OF INDIA (SOUTH ZONE), EMPLOYEES CO-OP
SOCIETIES LTD., NO.MSCS/ CR-23/92, N.NO.40,
O.NO.133, 2ND FLOOR, VEPPERY HIGH RD., CH-3...1st Respondent in
WA 1448/16

A.KARPAGAM,
ASST. GRADE III THE FOOD CORPORATION
OF INDIA (SOUTH ZONE), EMPLOYEES CO-OP
SOCIETIES LTD., NO.MSCS/ CR-23/92, N.NO.40,
O.NO.133, 2ND FLOOR, VEPPERY HIGH RD.,
Periamet
CH-3

...1st Respondent in
WA.No.1449/16

R.Premalatha

...1st Respondent in WA.1450/16

M.Reena

...1st Respondent in WA.1451/16

J.Balaji

...1st Respondent in WA.1452/16

A.Arulkumar

...1st Respondent in WA.1453/16

R.Jagadeesan

...1st Respondent in WA.1454/16

G.Saravanan

...1st Respondent in WA.1455/16

P.Babu

...1st Respondent in WA.1456/16

A.Sivakumar

...1st Respondent in WA.1457/16

2 The Food Corporation of India
Rep. by its Director
Government of India
Ministry of Agriculture and Co-operation
New Delhi-1. Respondents

Prayer: Writ Appeal No.1446 of 2016 filed filed under Clause 15
of the Letters Patent against the order dated 3.11.2016 passed
in WMP.No.10948 of 2016 10949,10950,10951,10952,10953,
10963,10964,10962,10965,17200, and 19913 of 2016 in
WMP.No.7368,7369, 7370,7371,7372,7373,7850,7851,7849,7852,
10228, and 16911 of 2016 in
WP.No.8302,8303,8304,8305,8306,8307,8862,8863,8861,8864,11858,
and 19571 of 2016 respectively W.M.P.No.10948 to 10965 of 2016
in W.P.No.8302 of 2016 on the file of this court.

Petitions praying that in these circumstances stated therein
and in the respective affidavits filed therewith the High Court
will be pleased to vacate the stay order granted on

(i) 7.3.2016 in WMP No.7368/2016 in WP No.8302/2016 (in WMP.10948/2016);

(ii) 7.3.2016 in WMP No.7369/2016 in WP No.8303/2016 (in WMP.10949/2016);

(iii) 7.3.2016 in WMP No.7370/2016 in WP No.8304/2016 (in WMP.10950/2016);

(iv) 7.3.2016 in WMP No.7371/2016 in WP No.8305/2016 (in WMP.10951/2016);

(v) 7.3.2016 in WMP No.7372/2016 in WP No.8306/2016 (in WMP.10952/2016);

(vi) 7.3.2016 in WMP No.7373/2016 in WP No.8307/2016 (in WMP.10953/2016);

(vii) 13.3.2016 in WMP No.10228/2016 in WP No.11858/2016 (in WMP.17200/2016);

(viii) 10.6.2016 in WMP No.16911/2016 in WP No.19571/2016 (in WMP.19913/2016);

(ix) 9.3.2016 in WMP No.7849/2016 in WP No.8861/2016 (in WMP.10962/2016);

(x) 9.3.2016 in WMP No.7851/2016 in WP No.8862/2016 (in WMP.10963/2016);

(xi) 9.3.2016 in WMP No.7853/2016 in WP No.8863/2016 (in WMP.10964/2016);

(xii) 9.3.2016 in WMP No.7855/2016 in WP No.8864/2016 (in WMP.10964/2016) pending WP Nos.8302 to 8307, 11858, 19571, 8861 to 8864/2016 respectively.

For appellant : Mr.P.Wilson, Senior Counsel for
Mr.P.Anbarasan

For Rlin W.A.No.1454
of 2016 : Mr.R.Gopinath
For R1 in W.A.Nos.1446 to
1451 of 2016 : Mr.M.R.Jothimanian

COMMON JUDGMENT

(Judgment of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel appearing for the appellant and Mr.R.Gopinath, learned Counsel appearing for the Caveator/first respondent, who is directed to take notice on behalf of the first respondent.

2. It appears that exercising power under section 25FF of the Industrial Disputes Act, the employees of the Appellant Corporation/Society were retrenched. Further, it appears that the employees have moved straightway this court and hence, the learned Single Judge passed an interim order, pending disposal of the writ petitions, as under:-

"Though the retrenchment order was already stayed by this court as early as on 7.3.2016, 9.3.2016, 13.3.2016 and 10.6.2016 so far, salary has not been paid to the petitioners by the respondents. Once a retrenchment order is stayed, the petitioners are deemed to be in service and they have to be provided with employment and also the salary.

2. Any violation would amount to contempt. To avoid contempt proceedings, the respondent/Secretary is directed to pay salary, including arrears to the petitioners on or before 16.11.2016. If the salary alongwith arrears is not paid to the petitioners on or before the aforesaid date and compliance report is not filed by the respondent/Secretary, he is directed to be present before this court on 17.11.2016 and this court would pass appropriate orders on that day...."

3. Further, it appears that the matter was posted on 17.11.2016 at 2.15 pm for filing compliance report and also appearance of the Secretary and also the order has been passed by the learned Single Judge directing the Secretary of the Society to appear in court and to provide the following details:-

"1. How many persons are employed in the respondent society?

2. What is the salary being paid to each and every person in the respondent society including the Secretary?

3. What is the Diwali Bonus paid to persons in the respondent society?

4. Details of the respondent/Secretary, i.e., date of appointment in the society, qualification, salary, his other occupation, present and past occupation.

5. The current bank balance of the respondent society."

4. On the point of jurisdiction, the learned counsel sought to contend that instead of invoking the jurisdiction of the Labour Court, the employees have straightway approached this court and the learned Single Judge ought not to have entertained the writ petitions.

5. After hearing the counsel for the parties, we are of the considered view that it would not be proper to entertain the writ petitions and there is no cause of action for maintaining the writ petitions as it is not against the order of the Industrial Dispute to exercise the power under Article 226 of the Constitution of India. It is with regard to retrenchment and therefore, it requires a serious adjudication of the matter by a fact finding forum i.e., the Labour Court. Since the provisions of ID invoked, it would be proper for the parties to approach the Labour Court by filing petitions raising industrial dispute within one month from today.

6. The order of the learned Single Judge is hereby set aside. However, reinstatement made, pursuant to the order of the learned Single Judge cannot be disturbed for the present, but, it would be subject to the disposal of the litigation/dispute to be raised before the Labour Court and subject to the result of the decision that would be taken by the Presiding Officer/Labour Court and the order of reinstatement would continue. With the above observation, the order of the learned Single Judge is modified and accordingly, the writ petitions are liable to be dismissed. However, all the contentions of the parties are left open to be raised before the Labour Court. It is for the Labour Court to decide the matter, without being influenced by the order or any observation made by the learned Single Judge. However, it is made clear that if salary of the employees is not paid, it is for the employee to file appropriate applications for getting the interim relief before the Labour Court/Labour Officer.

7. In fine, the writ appeals are allowed and the writ petitions are dismissed. No costs. The connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

ssk.

To

1.The Director

The Food Corporation of India

Government of India

Ministry of Agriculture and co-operation

New Delhi -1

+4 ccs to Mr.R.Gopinath Advocate sr 66003

+1 cc to Mr.Row and Reddy Advocate sr 66604

+1 cc to Mr.M.R.Jothimanian Advocate sr 66734

+12 ccs to M/s.P.Anbarasan Advocate sr 65982 dt 20/12/2016

W.A.Nos.1446 to 1457 of 2016

nm(co)

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