

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.03.2016

CORAM

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition No.19455 of 2013
and
M.P.No.1 of 2013

1. S.Yuvaraj
2. M.Venkatesan
3. K.Balu
4. M.Sudhakar
5. K.M.Vigandar
6. P.Seshadri
7. K.Munirathinam
8. A.Manimaran
9. R.Lakshmanan
10. S.Kathirvel
11. D.Manikandan
12. S.Nagaraj
13. K.Munusamy
14. A.Gana Michael Raj
15. A.Srikanth
16. R.Logesh
17. S.J.Ramesh
18. B.Saravanan
19. V.Anandan
20. C.Muralidass

... Petitioners

1. The Presiding Officer,
Industrial Tribunal, Tamil Nadu,
High Court Campus, Chennai - 600 104.

2. The Management,
SRF Limited,
Plot No.K1, SIPCOT Industrial Complex,
Gummidipoondi,
Tiruvallur District 601 201.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for concerned records from the first respondent/Tribunal, and to quash the order of the first respondent, dated 03.07.2013, in Miscellaneous Application No.463 of 2012, in Approval Petition Nos.3 to 22 of 2010, and to direct the second respondent to pay

the last drawn wages to the petitioners as subsistence allowance by way of interim relief to each of the petitioner, every month from September, 2008 when the A.P.Nos.3 to 22 of 2010 was filed till the disposal of the Approval Petitions No.3 to 22 of 2010 by the first respondent/Tribunal.

For Petitioners : Mr.Balan Haridas

For Respondent-1 : Tribunal

For Respondent-2 : Mr.Sanjay Mohan for
M/s.S.Rama Subramaniam Associates

ORDER

Heard Mr.Balan Haridas, the learned counsel appearing for petitioners and Mr.Sanjay Mohan, the learned counsel appearing for M/s. S.Rama Subramaniam Associates, counsels for second respondent/Management.

2. The parties have settled the matter, and entered into a Memorandum of Settlement, under Sections 2(P) and 18 (1) of Industrial Disputes Act, 1947, read with Rule 25 of Tamil Nadu Industrial Disputes Rule, 1958, dated 16.03.2016. In terms of the abovesaid settlement, out of 20 petitioners, payments have been made to 17 petitioners. Insofar as remaining 3 petitioners are concerned, viz., i) V.Anandan, ii) Srikanth and iii) S.J.Ramesh, payments will be made on their producing Permanent Account Numbers to the second respondent/Management. Further, in respect of three workmen, viz., i) S.Yuvaraj, ii) B.Saravanan and iii) K.Munusamy, they shall report at Viralimalai on 01.04.2016.

3. The learned counsel appearing for petitioners/workmen agrees to instruct the three clients, viz., i) V.Anandan, ii) Srikanth and iii) S.J.Ramesh to produce PAN card numbers for being entitled to the payment. The second condition, (viz., the condition requiring three workmen, i) S.Yuvaraj, ii) B.Saravanan and iii) K.Munusamy, to report at Viralimalai on 01.04.2016), the same is also agreeable to the learned counsel.

4. The aforesaid conditions are placed on record, and the workmen, whose names are mentioned above, shall abide by the said conditions.

5. The Memorandum of Settlement, dated 16.03.2016, entered into between the parties under Section 18 (1) of Industrial Disputes Act, 1947, is received by this Court today, and for better appreciation, the said settlement is extracted hereunder:-

"MEMORANDUM OF SETTLEMENT UNDER SECTION 2(P)
AND 18(1) OF THE INDUSTRIAL DISPUTE ACT, 1947
READ WITH RULE 25 OF TAMIL NADU INDUSTRIAL
DISPUTE RULE 1958 "

Name of Parties	The Management of M/s. SRF Ltd., Gummidipoondi Unit, Plot No. K-1, Sipcot Industrial Complex, Gummidipoondi - 601 201
	And 1. SRF New Democratic Workers Union, 2/372, Kammavarpalayam, Thervazhi Post, Gummidipoondi - 601 201. Thiruvallur District 2. Mr. Vigandar K.M 3. Mr. Nagarajan. S 4. Mr. Shesasthri. P 5. Mr. Manimaran. A 6. Mr. Lakshmanan. R 7. Mr. Ramesh S.J 8. Mr. Sudhakar. M 9. Mr. Munuswamy. K 10. Mr. Venkatesan. M 11. Mr. Yuvaraj. S 12. Mr. Munirathnam. K 13. Mr. Manikandan. D 14. Mr. Balu. K 15. Mr. Kathirvel. S 16. Mr. Anandan. V 17. Mr. Srikanth. A 18. Mr. Logesh. R 19. Mr. Saravanan. B 20. Mr. GnanaMichealraj. A 21. Mr. Muralidass. C
Representing Management	1. Mr. V. Sekar Senior Vice President - Operations 2. Mr. S. Udaya Kumar Senior Vice President - Operations 3. Mr. R. Nagaraj Chief Manager (HR)

Representing Workman	1. Office Bearers of SRF New Democratic Workers Union i. Mr.Suba Thangarasu Honorary President ii. Mr. M.J. Sudesh Kumar Advisor iii. Mr. C. Arumugam President iv. Mr. K. Thiyagu Vice President v. Mr. M. Ramajeyam General Secretary vi. Mr. A. Mahesh Joint Secretary - 1 vii. Mr. T. Ayyanar Kannan Joint Secretary - 2 viii. M. Sudhakaran Organizing Secretary ix. C. Arumugam Treasurer & 20 Individuals covered by this settlement (in person) 2. Mr. Vigandar K.M 3. Mr. Nagaraj. S 4. Mr. Shesasthri. P 5. Mr. Manimaran. A 6. Mr. Lakshmanan. R 7. Mr. Ramesh S.J 8. Mr. Sudhakar. M 9. Mr. Munuswamy. K 10. Mr. Venkatesan. M 11. Mr. Yuvaraj. S 12. Mr. Munirathnam. K 13. Mr. Manikandan. D 14. Mr. Balu. K 15. Mr. Kathirvel. S 16. Mr. Anandan.V 17. Mr. Srikanth. A 18. Mr. Logesh. R 19. Mr. Saravanan. B 20. Mr. GnanaMichealraj. A 21. Mr. Muralidass. C
Broad description Category and No. of workmen covered by the Settlement	20 (Twenty) (See Annexure I for identification and details)

SHORT RECITAL OF THE CASE

WHEREAS, the management of M/s. SRF Ltd., in its Gummidipundi Unit is engaged in the business of Polyester Industrial Yarn, Polyester and Nylon Tyre Cord Fabric.

AND WHEREAS 20 individuals more fully described in "Annexure - I" were employed in M/s. SRF Ltd., as Area Leaders (as the designation then was).

AND WHEREAS the above 20 individuals were terminated from service vide orders dated 09.09.2008 issued to each one of them.

AND WHEREAS the management has filed Approval Petitions under section 33(2) (b) of the Industrial Dispute Act, 1947 seeking approval of termination of the above 20 Individuals from the service before the Hon'ble Second Additional Labour Court, Chennai and the same were numbered as A.P.Nos. 6 to 25 of 2008.

AND WHEREAS pursuant to the orders of the Hon'ble High Court, Madras dated 17.11.2009 passed in W.P.No. 18624 of 2009 the above said Approval Petition has been transferred from the files of the Hon'ble Second Additional Labour Court, Chennai to the files of the Hon'ble Industrial Tribunal, Chennai and has been re-numbered as A.P.No. 3 to 22 of 2010 and the same are still pending.

AND WHEREAS the orders of termination of the above 20 individuals are also connected with police complaint and based on this there is Criminal Proceedings against to the employee which is pending before the Judicial Magistrate I, Ponneri as PRC.No. 16 of 2010. Now the same has been transferred to Fast Track Court No IV, Ponneri and the case has been taken on file as S.C.No. 257 of 2011 same is pending.

AND WHEREAS during the pendency of the above said Approval Petitions, the above 20 individuals through their Union viz., SRF New Democratic

Workers Union, Gummidipoondi has approached the SRF Management for an amicable out of court settlement.

AND WHEREAS all the parties to this settlement have held several rounds of bilateral negotiations and arrived at a Settlement, the terms of which are as follows;

TERMS OF SETTLEMENT

PART - A

1.Out of the 20 individuals covered by this settlement whose names are mentioned in Annexure I, the following 13 individuals viz.,

1	Mr. Vigandar K.M S/o. Mohan No.70, Pathapalayam village, S R Kandigai Post Gummidipoondi TK - 601 201	8	Mr. Munirathnam K. S/o. Munikrishnan, SR Kandigai village & post, Gummidipoondi TK 601 201
2	Mr. Nagarajan S. S/o. Sugumaran, No.24/12, Brindhavan Street, West Mambalam, Chennai - 600 033	9	Mr. Manikandan.D S/o. Durai Perambur Village, Soolaimeni Post, Uthukottai TK - 602 026.

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3	Mr. Shesasthri. P S/o. Ponvel, No.356, Bye-pass road, Samyreddykandigai Village, Thervazhi post, Gummidipoondi TK 601 201	10	Mr. Balu.K S/o. Kuppan, No.17, Dhanapal Street, New washermenpet Chennai - 600 081
4	Mr. Manimaran.A S/o. Asaithambi, No.1, Anna Street, Minjur Post, Ponneri TK - 601 203	11	Mr. Kathirvel. S S/o. Samyreddy Rakkampalayam village, Sunnambukulam post, Gummidipoondi TK 601 201
5	Mr. Lakshmanan.R S/o. Raju No.1547, 3rd Main road, Tamilnadu Housing Board, Mathur, Chennai - 600 068	12	Mr. Anandan.V S/o. Veerabhadram, 75, Thoota Street, Arani Village & post Ponneri TK - 601 101
6	Mr. Sudhakar.M S/o. Mohan, Chinnanatham village, Mangavaram post, Gummidipoondi TK - 601 201	13	Mr. Muralidass. C S/o Chinnaswamy, Odappai village & post, Uthukottai TK - 602 023.
7	Mr. Venkatesan. M S/o. Munirathinam, No.2/145, Kalathi Street, New Gummidipoondi, Gummidipoondi - 601 201		Thiruvallur District.

have, based upon bilateral negotiations decided to resign from services with effect from 09.09.2008 and as a result and consequent to the said bilateral negotiations have hereby submitted individual letters of resignations each dated 16.03.2016 whereby they resign from the services of the Management with effect from 09.09.2008 and have requested that the resignation be accepted with effect from 09.09.2008. The copy of each letters of resignation submitted by the 13 individuals are enclosed with this settlement as "Annexure A-1 to A-13". The original letters are retained by the management.

2. Arising out of aforementioned the letters of resignation dt. 16.03.2016 submitted by the above said 13

individuals, the Management hereby issues individual letters of acceptance of each resignation and such acceptance takes effect from 09.09.2008 based upon the request made out in the said resignation letters. The aforesaid letters of acceptance have duly been handed over to the above 13 individuals and acknowledgement received. The copy of each letters of acceptance of resignation issued by the Management to the above said 13 individuals are enclosed with this settlement as "Annexure B-1 to B-13". The originals of the letters of acceptance referred to above are with the individual workmen concerned.

3. A request has been made to the management by the said 13 individuals whose names are mentioned in Annexure I as well as by SRF New Democratic Workers Union who is also a signatory to the settlement on their behalf that the management may agree to pay special lump sum compensation to these 13 individuals and as the management is agreed to the same and arising out this settlement, the Management agrees that the above said 13 individuals shall be paid lumpsum compensation and other monetary benefits as per Annexure II.

4. As a result of this settlement, for all and every purpose, the above said 13 individuals shall have ceased to be in service of M/s. SRF Limited with effect from 09.09.2008. On the basis of their resignations referred to above and on from that date they would not be and are not in the services of M/s. SRF Limited.

5. The above said 13 individuals shall accept the amount referred to in Annexure - II supra and shall issue a receipt for having received the said amount in full and final settlement of all his claims against the management.

6. The above said 13 individuals agree that they shall have no claim whether monetary or otherwise against the management including that of reinstatement or re-employment on receipt of the amount mentioned in Annexure - II supra.

PART - B

7. Out of the 20 individuals covered by this settlement, the following remaining 7 individuals (whose names are mentioned in Annexure III to this settlement) viz.,

1	Mr. Ramesh S.J S/o .V.Jayaraman, ChinnaKokkuPalayam, Sunnambukulam post, Gummidipoondi TK - 601 201	5	Mr. Logesh.R S/o. C.Ramachandran, 792, Koil street, Narasampalayam Village Sunnambukulam Post Gummidipoondi TK - 601 201.
2	Mr. Munuswamy.K S/o. Raghurambabu, 492, Kodhandaramarkoil street, Manellore Village & Post, Gummidipoondi TK - 601 202	6	Mr. Saravanan.B S/o. C.Balaraman, 1/850, Muthumariamankoi l street, Gandhi Nagar, Red Hills, Chennai - 600 052.
3	Mr. Yuvaraj.S S/o. Subramani, No.310, Ammankoil street, Valaiyathur village, Damaraipakkam Via,	7	Mr. GnanaMichealraj.A S/o. M.Antony, No.1/49, Dharmarajakoil street, Madharpakkam Village & Post Gummidipoondi TK - 601 202
4	Mr. Srikanth. A S/o. D.Ambikapathypillai, 605, Perumalkoil street, Thervoy Village & post Gummidipoondi TK - 601 202.		

based upon the their request and also the request made on their behalf by SRF New Democratic Workers Union who is also the signatory to the settlement, are hereby offered fresh employment by the Management in the Plants/Factories as per "Annexure - IV" as fresh entrant and they are fitted in the appropriate scale of pay as per "Annexure - III". The said 7 individuals hereby make it clear that they are pleased to accept employment as fresh recruits/entrants as per the pay scales indicated in Annexure - III. The copies of the order of Appointments issued to the above said 7 individuals whose names are morefully described are enclosed herewith as "Annexure - C-1 to C -7". The said seven individuals hereby accept such fresh recruitment and undertake to report that the locations indicated in the Annexure IV

and fresh appointment orders issued to them on the respective dates indicated in the said orders.

8. For the purpose of payment of gratuity in accordance with the provisions of the Payment of Gratuity Act alone and for no other purpose, the following shall be taken note of subject to the individual being entitled to gratuity in accordance with the statute.

Period of service: Period of service for said gratuity shall be date of joining as indicated in Annexure IV till date of termination of services as also indicated in the said annexure together with the period between the date of termination till date of fresh appointment has also indicated in the said Annexure together with the service put in from the date of said fresh appointment till his end of service when his gratuity becomes due.

9. As a result of this settlement, for all and every purpose, the above said 7 individuals shall be deemed to have joined the service of the management only from 16.03.2016.

10. As a result of this settlement, the above said 7 individuals shall be paid one time lumpsum payment as a special case as per "Annexure - V" and the 7 individuals hereby accept that they shall issue receipts for having received the said amounts in full and final settlement of all their claims, monetary or otherwise, against the management for the service rendered by them from the date of their appointment as indicated in till 09.09.2008.

11. After receiving the onetime lumpsum payment stated supra, of the above said 7 individuals agree that they shall have no claim either monetary (backwages, perquisites, etc) or otherwise against the Management from the date of their respective appointment till the date of their fresh appointment viz., 16.03.2016.

PART - C

12. Both the Management and the Union and the 20 individuals whose names are found in Annexure - I agree to file Joint Memo in A.P.Nos. 3 to 22 of 2010 before the Hon'ble Industrial Tribunal, Chennai bringing this settlement to the notice of the Hon'ble Industrial Tribunal praying for orders in terms of this settlement.

13. The Union hereby agrees to withdraw WP.No.19455 of 2013 which is filed for the subsistence allowance before the Hon'ble High Court, Madras in view of this settlement and the Union will submit a letter to the Registry of the Hon'ble High Court, Madras seeking withdrawal of the above Writ Petition. The Honourable High Court, Madras shall be requested to make this settlement as part of the orders in the above WP.

14. As a result of this Settlement, the employer agreed not to proceed with the criminal case S.C.No. 257 of 2011 that against the employees, which is pending before the Hon'ble Fast Track Court IV, Ponneri in any manner, and co-operate with employee to close the case in accordance with the law.

15. It is agreed that 13 Individuals covered Annexure II will be liable to pay the Income Tax and other connected payments due to the Government which will be deducted during the payment as per the provisions of the Income Tax Act.

IN WITNESS WHEREOF THE PARTIES SET THEIR HANDS ON THIS THE 16th DAY OF MARCH 2016."

6. The aforesaid Settlement, dated 16.03.2016, as extracted above, is recorded, and the Writ Petition is disposed of in terms of the Settlement. The Industrial Tribunal/first respondent is directed to take note of the Settlement, dated 16.03.2016 and the order of this Court, and dispose of the Approval Petitions, viz., A.P.Nos.3 to 22 of 2010, in terms of the Settlement, on the same being filed before it. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS III)

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Sub Assistant Registrar

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To

1. The Presiding Officer,
Industrial Tribunal, Tamil Nadu,
High Court Campus,
Chennai - 600 104.
2. The Management,
SRF Limited,
Plot No.K1,
SIPCOT Industrial Complex,
Gummidipoondi,
Tiruvallur District 601 201.

+lcc to Mr.Balan Haridas, Advocate, S.R.No.19301

+lcc to M/s.S.Rama Subramaniam Associates,
Advocate, S.R.No.19493

Writ Petition No.19455 of 2013

MG (CO)
CA (12/04/2016)



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