

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. No.1094 of 2013
and
M.P. No.1 of 2013

Chennai Perunagara Kattumana Thozhilalar Sangam
(Regn.) No.2479/MDS),
No.52, Cooks Road,
Chennai - 600 012. ... Petitioner

Vs.

State of Tamil Nadu rep. By its
Secretary to Government,
Department of Labour and Employment,
Secretariat, Fort St. George,
Chennai - 600 009 ... Respondent

PRAYER : Writ Petition filed under Article 226 of the
Constitution of India praying to issue a Writ of Mandamus
directing the respondent to implement the Building and other
Construction Workers (Regulation of Employment and Conditions
of Service) Act, 1996.

For Petitioner : Mr.V.Stalin

For Respondent : Mr.Zakir Hussain,
Government Advocate.

O R D E R

The prayer in the Writ Petition is for the issuance of a
Writ of Mandamus directing the respondent to implement the
Building and other Construction Workers (Regulation of
Employment and Conditions of Service) Act, 1996 and make the
same applicable to State of Tamil Nadu also.

2. According to the learned counsel for the petitioner,
the Building and Other Construction Worker's Welfare Cess Act,
1996 (Act No.28 of 1996) [herein after referred to as "Central
Cess Act"] Act, is more beneficial, since, 1% Cess is
collected wherein under the State Act, 0.3% Cess is collected.

3. Mr.Zakir Hussain, learned Government Advocate for the
respondent, would submit that the Government of Tamil Nadu have

enhanced contribution towards cess at 0.3% to 1% in G.O.Ms.No.295, Labour and Employment (I2) Department, dated 17.12.2013 and as such the apprehension of the petitioner may not be correct to this effect.

4. The learned Government Advocate would draw my attention to the counter affidavit where he states thus :

"4. It is submitted that the Government of Tamil Nadu have issued a Notification vide G.O. Ms.No.295, Labour and Employment (I2) Department, dated 17.12.2013, fixing 1 % of total estimated cost of the building or construction to the fund constituted for the benefit of the manual workers in the employment in construction or maintenance of dams, bridges, roads or in any building operations. It is submitted that from the date of inception of Tamil Nadu Construction Workers Welfare Board till 31.08.2013, a contribution of Rs.668,63,34,698/- has been received towards Tamil Nadu Construction Workers Welfare Fund. It is submitted that the petitioner mainly contends that under the Building and Other Construction Worker's Welfare Cess Act, 1996 (Act No.28 of 1996) [herein after referred to as "Central Cess Act"], 1% cess is collected whereas under the State Act 0.3% cess is collected and hence the funds position will be better under the Central Cess Act rather than under the State Act under the Central Cess Act, cess is collected on the cost of construction incurred by an employer whereas under the State Act cess is collected on the estimated cost by local authorities at the time of making an application for seeking planning permission for construction. This system works out well in this State without any overheads. Further under the State Act the cess is collected for construction of any building immaterial of the cost of the building. Whereas the Central Act excludes the residential buildings constructed for own purpose, at a cost less than 10 lakhs. Section 8-A of the State Act provides collection of cess not exceeding 1%. Hence, taking into consideration various aspects and requests from the Trade Unions, the Government of Tamil Nadu enhanced contribution towards Tamil Nadu Construction Workers Welfare Fund from 0.3% to 1% vide G.O. (MS.) No.295, Labour and Employment (I2) Department, dated 17.12.2013. Further action is also being taken to include Central Government and Central Government undertakings in the State Act, so as to collect cess from them also. Even though cess is being collected under the State Act, certain Central Government organisations are voluntarily paying the cess to Tamil Nadu Construction Workers Welfare Board, as per Central Act".

5. I concur with the submission made by the learned Government Advocate that the contribution of cess by workers towards of Tamil Nadu Construction Worker's Welfare Funds could be equal or more beneficial than the cess prescribed by the Central Act.

6. The learned Government Advocate would draw my attention to the various welfare scheme to the registered manual workers of the welfare board under the State of Tamil Nadu. The counter to the effect in paragraph 7 reads thus :

"The Government of Tamil Nadu have constituted the Tamil Nadu Construction Workers Welfare Board during the year 1999 and 15 other boards thereafter. The Government of Tamil Nadu also formulated the Tamil Nadu Manual Workers (Construction Workers) Welfare scheme, 1994, the Tamil Nadu Manual Workers Social Security and Welfare Scheme 2006 and 14 other welfare schemes for the welfare of the unorganised workers. The following welfare schemes are being provided to the registered manual workers of the welfare Boards.

1)	Accident Relief Scheme	Rs.
	a) Accidental Death	1,00,000/-
	b) Accidental Disability (based on extent of Disability)	Upto Rs.1,00,000/-
2)	Natural Death Assistance	15,000/-
3)	Funeral expenses Assistance	2,000/-
4)	Educational Assistance (per annum)	
	a) Girl Children studying 10 th Std.	1,000/-
	b) 10 th passed	1,000/-
	c) Girl Children studying 11 th std.	1,000/-
	d) Girl Children studying 12 th Std.	1,500/-
	e) 12 th passed	1,500/-
	f) (i) Regular Degree Course (ii) Regular Degree Course with Hostel facility	1,500/- 1,750/-
	g) (i) Regular Post Graduate Course (ii) Regular Post Graduate Course with Hostel facility	4,000/- 5,000/-
	h) (i) Professional Degree Course (ii) Professional Degree Course with Hostel facility	4,000/- 6,000/-

	i) (i) Professional Post Graduate course	6,000/-
	(ii) Professional Post Graduate Course with Hostel facility	8,000/-
	j) (i) ITI or Polytechnic Course	1,000/-
	(ii) ITI or Polytechnic Course with Hostel facility	1,200/-
5)	Marriage Assistance (a) For men	3,000/-
	(b) For Women	5,000/-
6)	Maternity Assistance	6,000/-
	Miscarriage / Medical Termination of Pregnancy	3,000/-
7)	Reimbursement of cost of Spectacles	Upto 500/-
8)	Pension	Rs.1000/- Per month
9)	Family Pension (applicable only to Tamil Nadu Construction Workers Welfare Board)	Rs.400/- Per month
10)	Provision of wheel chair and artificial limbs	Amount fixed by Welfare Board for differently abled persons.

7. In view of the same, I do not find any merits in the present Writ Petition. Accordingly, the Writ Petition stands dismissed. No costs. Consequently connected Miscellaneous Petition is also closed.

सत्यमेव जयते

Sd/-

Asst.Registrar (CO)

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Sub Asst. Registrar

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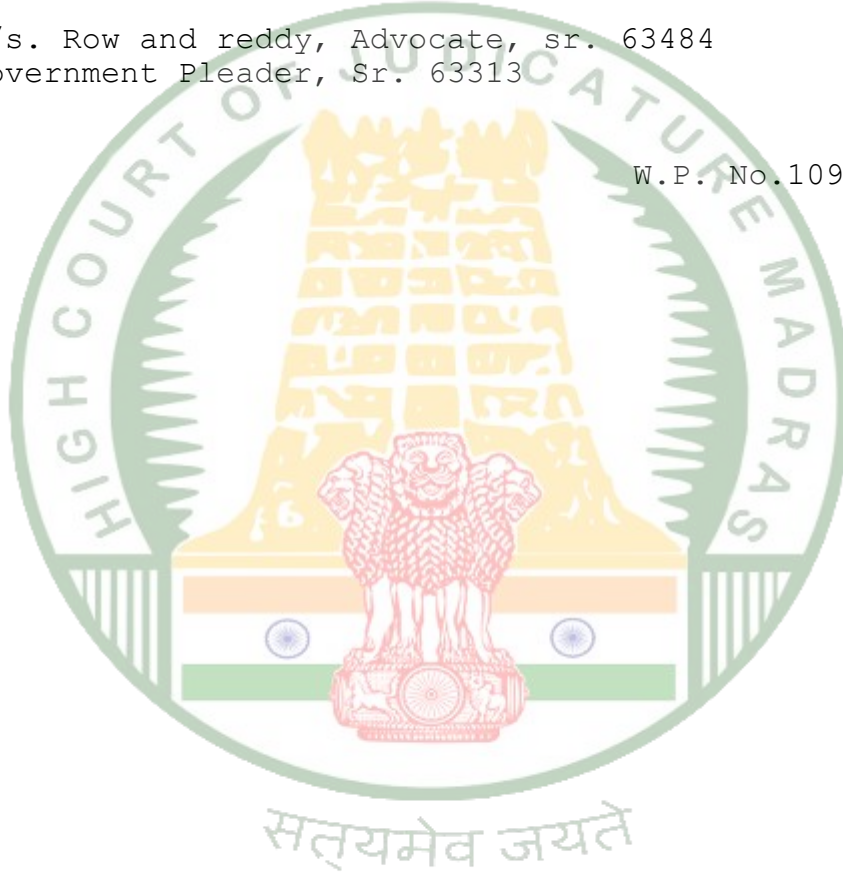
To

The Secretary to Government,
Department of Labour and Employment,
Secretariat, Fort St. George,
Chennai - 600 009

1 cc to M/s. Row and reddy, Advocate, sr. 63484
1 cc to Government Pleader, Sr. 63313

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