

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2017

CORAM

THE HON'BLE Mr. JUSTICE M.M.SUNDRESH

W.P.No.8233 of 2017
and
W.M.P.No.8984 of 2017

TNEB Card Billing Staff Union rep. by its
State Secretary
13/7 MIG Flat, Central Avenue,
Mahakavi Bharathi Nagar,
Vyasarpadi, Chennai-39 .. Petitioner

Vs

1. Deputy Commissioner of
Labour I
(Registrar under the Trade Unions
Act, 1926),
DMS Compound, Teynampet,
Chennai - 6.

2. Tamil Nadu Electricity Generation
and Distribution Corporation
rep. by its Chairman,
No.144, Anna Salai, Chennai - 2.

.. Respondents

सत्यमेव जयते

Writ petition filed under Article 226 of The Constitution of India praying for the issuance of a writ of declaration declaring the action of the first respondent in cancelling the registration of the petitioner Union without notice, without hearing and without passing the order and communicating the same to the petitioner Union as required under Section 10 of the Trade Unions Act, 1926 as illegal, arbitrary and contrary to law and consequently direct the first respondent to restore the registration of Trade Union of the petitioner Union and permit the petitioner to file Form E Returns.

For Petitioner .. Mr.Balan Haridas
For Respondents .. Mr.R.A.S.Senthivel,
Addl. Govt. Pleader for R1
Ms.R.Varalakshmi for R2

ORDER

The petitioner is a Union, which was registered originally. From the records, it appears that its registration was cancelled presumably on the ground that it did not comply with the procedural requirement in the year 2005. However, notwithstanding the same, settlements have been arrived at between the petitioner and the management for several years thereafter, under Section 12(3) of the Industrial Disputes Act.

2. The petitioner made a representation to the first respondent on 29.11.2016 stating that records have been destroyed and therefore, permission may be given to file them for the purpose of renewing the registration. The petitioner was informed that such a request cannot be considered since the registration has been cancelled way back in the year 2005.

3. On a query raised by the petitioner, it was informed that inasmuch as records are not available, it is not known as to whether it was put on notice prior to cancellation and the cancellation order was served on it.

4. Learned counsel appearing for the petitioner would submit that an application has to be construed from the date of knowledge. The petitioner has given explanation for non-production of records, which were destroyed during the floods. In this connection, the petitioner has not been heard nor an order of cancellation has been served.

5. Learned counsel appearing for the first respondent would submit that the petitioner has come to the Court belatedly and therefore, no discretion is to be exercised.

6. The fact would reveal that the petitioner has been recognised by the management viz., the second respondent. The renewal is only a procedural compliance. In any case, the same will not take away the right of the petitioner to apply afresh. It is also not in dispute that the records have been destroyed at the office of the first respondent, who is not in a position to say as to whether it has complied with procedural requirement or not.

7. Considering the above, the petitioner is permitted to file an application seeking renewal by enclosing relevant documents. As and when such an application is received, the first respondent shall consider it and pass appropriate orders on merits, without taking note of the intervening years starting from the year 2005 onwards. Such an exercise has to be done within a period of eight weeks from the date of receipt of the renewal application from the petitioner.

8. With the above direction, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

mmi

To

1. The Deputy Commissioner of
Labour I
(Registrar under the Trade Unions
Act, 1926),
DMS Compound, Teynampet,
Chennai - 6.

2. The Chairman,
Tamil Nadu Electricity Generation
and Distribution Corporation,
No.144, Anna Salai, Chennai - 2.

+lcc to Ms.R.Varalakshmi, Advocate, S.R.No.44927

+lcc to Mr.Balan Haridas, Advocate Sr. 44569 (10.07.2017)

W.P.No.8233 of 2017

RR(CO)

CS/10/07/17