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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :07.09.2018

CORAM

THE HON'BLE MR.JUSTICE M.SATHYANARAYANAN

Review Petition. Nos.83 to 94 of 2017 and
WMP.Nos.11660/2017, 11503 to 11513/2017
in
W.P.Nos.1109 to 1120 of 2017

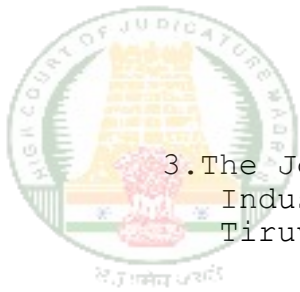
The Managing Director
Caterpillar India (Pvt) Ltd.,
Melnallathur,
Tiruvallur District.

..Petitioner in all the Rev.Aplns

vs

- | | |
|----------------------|---|
| 1.P.Sugumar | ..1 st Respondent in Rev.Apln.No.83/2017 |
| 2.M. Sivakumar | ..1 st Respondent in Rev.Apln.No.84/2017 |
| 3. S. Sivakumar | ..1 st Respondent in Rev.Apln.No.85/2017 |
| 4. K. Boopalan | ..1 st Respondent in Rev.Apln.No.86/2017 |
| 5. R. Ellaiyan | ..1 st Respondent in Rev.Apln.No.87/2017 |
| 6. B. Chandrasekaran | ..1 st Respondent in Rev.Apln.No.88/2017 |
| 7. B. Karunakaran | ..1 st Respondent in Rev.Apln.No.89/2017 |
| 8. E. Venkatesan | ..1 st Respondent in Rev.Apln.No.90/2017 |
| 9. S. Punniyakotti | ..1 st Respondent in Rev.Apln.No.91/2017 |
| 10. K. Periyandevan | ..1 st Respondent in Rev.Apln.No.92/2017 |
| 11. K. Ravi | ..1 st Respondent in Rev.Apln.No.93/2017 |
| 12. S. Kalyanaraman | ..1 st Respondent in Rev.Apln.No.94/2017 |

2.The District Collector,
Tiruvallur District,
Tiruvallur.



3.The Joint Director,
Industrial Safety and Health,
Tiruvallur District.

.. Respondents 2 & 3 in all the Rev.Aplns

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These Review Petitions are filed under Order 47 Rule 1 R/W 114 of Code of Civil Procedures to review the common order dated 18.01.2017 in WP.No.1109 of 2017 to 1120/2017.

Writ Petitions filed under Article 226 of the constitution of India praying for issuance of a Writ of Mandamus directing the respondents to consider the petitioners representation dated 24.9.2016 to conduct fresh enquiry for fixing the scale of pay and other monetary benefits with retrospective effective as per the agreement dated 8.12.1997.

For Petitioners in all Rev.Petitions

: Mr.G.Anand for T.S.Gopalan Associates

For Respondents in all Rev.Petitions

: Mr.Sekar for R1

Mr.M.Elumalai, Government Advocate
for R2 & R3

C O M M O N O R D E R

The present review applications are filed to review the common order dated 18.01.2017 made in WP.Nos.1109 to 1120 of 2017. Facts leading to the filing of the writ petitions have been narrated in the impugned common order and therefore, it is unnecessary to restate the facts once again.

2. Mr.G.Anand, learned counsel appearing for the review petitioners has drawn the attention of this Court to Paragraph No.5 of the common order passed in the writ petitions and would submit that the direction has been issued to the 1st respondent to put the 3rd respondent / Management on notice and commence and conclude the enquiry in terms of the summons dated 29.01.2016 as expeditiously as possible and not later than 10 weeks from the date of receipt of a copy of this order and communicate the decision taken, to the writ petitioners as well as the 3rd respondent / Management. However, even prior to passing of the common order, the Collector has passed an order dated 20.10.2010 in R.C.No.26489/2015/F4, pointing out that in the light of Memorandum of Undertaking and settlement arrived between the Management and Association, the District Administration has no role to play and also recorded the findings regarding Issue No.5 by the Joint Director of Industrial Safety and Health, Thiruvallur / Inspector under the Tamil Nadu Industrial



Establishment (Conferment of Permanent Status Workmen) Act, 1981 in Case No.E/814/2013.

3. Per contra, Mr.Sekar, learned counsel appearing for the 1st respondent would submit that the Management has failed to adhere to the terms of the above said settlement and admittedly, the petitioner had extended their valuable cooperation for the purpose of establishing the factory and they cannot be left in lurch and prays for appropriate orders.

4. A perusal of the order dated 10.11.2014 in case No.E/814/2013 passed by the Inspector under the Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workmen) Act 1981 would disclose that the petitioners therein made a claim seeking their Zero Grade on conferment and it was held to be unjustified. The District Collector, Thiruvallur has taken into consideration the said finding and vide communication dated 20.10.2016 has recorded the finding that in the light of the Memorandum of Understanding and Memorandum of Settlement arrived between the Management and the Association, the District Administration has no role to play.

5. The materials placed before this Court would indicate that even prior to passing of the common order, which is the subject matter of contempt, the Collector of Thiruvallur District has considered the claim and passed the order dated 20.10.2016. Therefore, in the considered opinion of this Court, the order passed by this Court is fully complied with and if the petitioners are aggrieved by the above cited proceedings of the District Collector, Thiruvallur dated 20.10.2016 and if it is open to them under law, they are always at liberty to challenge the same, in accordance with law before the competent forum.

6. The review applications stands disposed of, with the above clarification. No costs. Consequently connected miscellaneous petitions are closed.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

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To

1.The District Collector,
Tiruvallur District,
Tiruvallur.

2.The Joint Director,
Industrial Safety and Health,
Tiruvallur District.

3.The Managing Director
Caterpillar India (Pvt) Ltd.,
Melnallathur,
Tiruvallur District.

+1 CC to M/s.T.S. Gopalan And Co, Advocate sr 62073.

+1 CC to Ms.R.K. Kalpana, Advocate sr 62916.

Rev.Apln.Nos.83 to 94 of 2017

KGK(CO)
SP(03/10/2018)