

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-01-2017

CORAM:

THE HONOURABLE MR. JUSTICE T. RAJA

W.P.No.4603 of 2015

The Vellore and Tiruvannamalai District
Consumer Co-operative Wholesale
Stores Employees Union
Rep. by its President R. Kothandan, AITUC
Reg.No.43/NAT, No.37, Thennamaram Street
Vellore, Vellore District ... Petitioner

Vs

1. The Presiding Officer
Principal Labour Court
Vellore
Vellore District
2. The Management
The Vellore District Consumer
Co-operative Wholesale Stores Limited
No.14, Officers Line
Vellore 632 001 ... Respondents

Petition filed under Article 226 of the Constitution of India praying for a writ of declaration Declaring the action of the 1st Respondent in returning the applications filed by the 11 legal heirs of the deceased employees who are entitled to receive the payment in E.P.No. 52 of 2013 on the ground that the application should be presented along with the succession certificate as illegal, arbitrary and contrary to law and consequently direct the 1st Respondent Labour Court to entertain the payment out petition preferred by the 11 Legal heirs of the deceased employees.

For petitioner :: Mr. Balan Haridas
For respondents :: Mr. M.S. Palaniswamy for R2

O R D E R

The Vellore and Tiruvannamalai District Consumer Co-operative Wholesale Stores Employees Union represented by its President has come to this Court seeking a writ of Declaration

declaring the action of the Presiding Officer, Principal Labour Court/ first respondent herein in returning the applications filed by the 11 legal heirs of the deceased employees who are entitled to receive the payment in E.P.No. 52 of 2013 on the ground that the application should be presented along with the succession certificate as illegal arbitrary and contrary to law and consequently direct the 1st Respondent Labour Court to entertain the payment out petition preferred by the 11 Legal heirs of the deceased employees.

2. The petitioner being the Trade Union registered under the Trade Unions Act, 1926 and its registration number being 43/NAT, the employees of the Vellore District Consumer Co-operative Wholesale Stores Limited/second respondent herein, and also the retired employees are its members. The second respondent has entered into a Settlement on 17-08-2001 under Section 12(3) of the Industrial Disputes Act, 1947 and under this Settlement, the wages were revised with effect from 01-10-1999, but not given effect to. Seeking for revision of wages, an application under section 33(C)(1) of the Industrial Disputes Act, 1947 was preferred by the petitioner to the Government of Tamil Nadu, which remained unconsidered. Hence the petitioner filed W.P.No.34815 of 2004 before this Court. An order dated 30-11-2004 has been passed in the said writ petition and this Court directed the Government to issue the Revenue Recovery Certificate and recover the money. Thereafter G.O.(D).No.8 dated 03-01-2005 has been issued directing the Collector, Vellore to recover a sum of Rs.1,75,27,331/- from the second respondent and disburse the same to the concerned employees. But no recovery and disbursement has been made. Aggrieved by the said act, the petitioner filed E.P.No.52 of 2013 to recover the money, wherein a consent order was passed by the first respondent directing the second respondent to deposit the arrears of salary as per the above referred Settlement and Government Order. The second respondent filed W.P.No.9087 of 2014 challenging the consent order dated 27-02-2014 in E.P.No.52 of 2013. The said writ petition was disposed of directing the second respondent to deposit the amount due to the employees by 15-05-2014. The second respondent deposited certain amount and the said amount was disbursed to 81 employees.

3. Now the dispute before this Court in the present writ petition is out of the 81 employees, certain employees, have died and the legal heirs of those employees have given their payment out petition. Along with the payment out petition, the legal heirs have also enclosed the death certificate, legal heir certificate, voter ID card and No Objection Certificate of the other legal heirs for making the payment in favour of one of the legal heirs, along with the photograph of the legal heir, in whose favour the payment has to be made. The second respondent has also given 'No Objection'. At this juncture, to the

surprise of the petitioner, the first respondent has called for the petitioner to furnish the copy of the nomination filed by the deceased. The petitions were represented stating that no nomination was given by the deceased workman and the above enclosures would suffice their identity and the nomination of the deceased workman does not arise in these petitions. However, at present, the petitions are returned for want of Succession Certificate under Section 214(1)(b) of the Indian Succession Act.

4. Mr. Balan Haridas, learned counsel appearing for the petitioner would submit that when the legal heir of the said employees have enclosed the necessary death certificate, legal heirship certificate, voter ID card and No Objection Certificate of the other legal heirs for making the payment in favour of one of the legal heir, along with the photograph of the legal heir, in whose favour the payment has to be made, the return of the petitions by the first respondent for want of succession certificate is untenable.

5. The matter pertains to more than one decade. The legal heir have produced the death certificate, legal heirship certificate, voter ID card and No Objection Certificate of the other legal heirs for making the payment in favour of one of the legal heirs, along with the photograph of the legal heir, in whose favour the payment has to be made, which would suffice to establish that the said legal heir is the legal representative of the deceased. Hence insistence of succession certificate is not called for, since all other connected documents are produced by the members of the petitioner-Union. If a legal redress is made available to a party, it should be given in a timely manner. After being delayed for one decade, if the remedy is not forthcoming in a timely fashion, it is effectively the same as having no redress at all. Therefore, the respondents herein is directed to consider the payment out petitions of the said legal heirs without emphasizing their succession certificate and disburse the appropriate amount to each individual after verifying the enclosures, as stated above for identification of the said legal heir. The said exercise shall be completed within a period of eight weeks from today.

6. With the above direction, the writ petition is disposed of. No costs.

s/d-
Assistant Registrar(CS-II)

//True Copy//

Sub-Assistant Registrar

To

1. The Presiding Officer
Principal Labour Court
Vellore
Vellore District

+1 CC to M/s. Balan Haridas, sr 3486

+1 CC to M/s. M.S. Palaniswamy, sr 3662

W.P.No.4603 of 2015

AD(CO)
sp/13/2



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