

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2017

CORAM

THE HONOURABLE Mr. JUSTICE K.K.SASIDHARAN

AND

THE HONOURABLE Mr. JUSTICE M.V.MURALIDARAN

W.P.No.25595, 26211 of 2013 and

M.P.Nos.1 and 1 of 2013

- 1.The Union of India, Rep. by
The Secretary, Ministry of Finance,
Department of Revenue,
Central Board of Excise and Customs,
New Delhi.
- 2.Chief Commissioner of Central Excise,
Coimbatore.
- 3.Commissioner of Central Excise,
No.1, Foulks Compound,
Anai Medu, Salem - 636 001.
- 4.The Assistant Commissioner of Central Excise,
Erode Central Excise Division,
81, Bharathi Nagar, Choolai
Erode - 638 004.

... Petitioners in
W.P.No.25595/2013

- 1.The Union of India, Rep. by
The Secretary to Government, Ministry of Finance,
Department of Revenue,
Central Board of Excise and Customs,
North Block, New Delhi.
- 2.The Chief Commissioner of Central Excise,
No.6/7, STD Street, Race Course Road,
Coimbatore District.
- 3.The Commissioner of Central Excise,
No.6/7, STD Street, Race Course Road,
Coimbatore District.

4.The Commissioner of Central Excise,
No.1, Foulks Compound, Anai Medu,
Salem.

...Petitioners in
W.P.No.26211 of 2013

Vs.

1.G.Chitra

...1st respondent in W.P.No.25595/2013

2.M.Rukmani

...1st respondent in W.P.No.26211/2013

3.The Central Administrative Tribunal,
City Civil Court Buildings,
2nd Floor, Chennai - 600 - 104.

...2nd Respondent in both
WPs

PRAYER: W.P.No.25595/2013 filed under Article 226 of the Constitution of India, praying for a Writ of Certiorari, to call for the records of the order of the second Respondent in O.A.No.1048 of 2012 dated 28.02.2013 and the consequential Review Application No.18 of 2013 dated 15.07.2013 quash the same.

W.P.No.26211/2013 filed under Article 226 of the Constitution of India, praying for a Writ of Certiorari, to call for the records of the order of the second Respondent in O.A.No.1341 of 2012 quash the impugned order dated 21.08.2013.

For Petitioners : Mr.V.Sundareswaran
Senior Panel Counsel (both WPs)

For Respondents : Mr.Akbar Row for R1 (both WPs)

C O M M O N O R D E R

K.K.SASIDHARAN, J.

These two writ petitions are directed against the order dated 28.02.2013 and 21.08.2013 in O.A.Nos.1048 and 1341 of 2012, whereby and where under, the Madras Bench of the Central Administrative Tribunal, directed the petitioners to consider the names of the private respondents for conferment of temporary status. The related review petition was also dismissed by the Tribunal and the said order is also under challenge before us.

2. We have heard the learned Senior Panel Counsel for the petitioners and the learned counsel for the first respondent in the respective writ petitions.

3. The first respondent in the respective writ petitions filed Original Application before the Tribunal to grant them

temporary status. The applicants before the Tribunal contended that they were appointed as casual labourers and made to work for several years. The first respondent contended that under similar circumstances, the High Court of Madras and the High Court of Andhra Pradesh directed conferment of Temporary Status to the casual labourers. The first respondent, therefore wanted similar relief.

4. The Tribunal, without considering the merits of the matter allowed the original applications by following certain earlier orders. There was no attempt made by the Tribunal to ascertain as to whether the facts are similar and as such, the first respondent in the respective writ petitions is entitled to the benefits given to the employees, who were parties to the earlier proceedings.

5. The Tribunal in a case of this nature must consider the individual case and ascertain as to whether the employee is entitled to Temporary Status. There is no question of simply mentioning the earlier proceedings and granting the relief, without there being adjudication as to whether employees before the Tribunal are similarly situated and as to whether they are also entitled to the grant of Temporary Status. The order passed by the Tribunal does not contain any material, much less justifiable material, to grant temporary status to the first respondent in the concerned writ petitions. We are therefore of the view that the matter requires fresh consideration.

6. In the result, the orders dated 28.02.2013 and 21.08.2013 are set aside. The Original Applications in O.A.Nos.1048 and 1341 of 2012 are restored to file.

7. The Central Administrative Tribunal is directed to grant sufficient opportunity to the petitioners to file reply statement and thereafter, decide the matter on merits and as per law. Since the Original Applications are of the year 2012, we request the Tribunal to dispose of the matters as expeditiously as possible.

8. The writ petitions are allowed as indicated above. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

svki

Sub Assistant Registrar

To

1. The Central Administrative Tribunal,
City Civil Court Buildings,
2nd Floor, Chennai - 600 - 104.
2. The Secretary,
Union of India,
Ministry of Finance,
Department of Revenue
Central Board of Excise and Customs
New Delhi.
3. The Chief Commissioner of Central excise,
617, STD St.,
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6. The Commissioner of Central Excise,
No.6/7, STD Street, Race Course Road,
Coimbatore District.

+1cc to Mr.Sundareswaran, Advocate, S.R.No.15442
+1cc to Mr.Akbar Row, Advocate, S.R.No.15367

W.P.Nos.25595 and 26211 of 2013

RSI (CO)
RS (12/04/2017)

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