

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2017

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.44674 of 2016

The Chairman-cum-Managing Director
Hindustan Photo Films Mfg.Co.Ltd.,
Indu Nagar
Udhagamandalam
The Nilgiris 643 005

.. Petitioner

-vs-

1. The Deputy Director
Industrial Safety & Health
Udhagamandalam
The Nilgiris

2. R.Jayalakshmi
3. N.Sudha

.. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari, to call for the records relating to the order dated 21.03.2016 passed by the Deputy Director of Industrial Safety and Health, Udhagamandalam, The Nilgiris, the first respondent herein in Na.Ka.No.810 of 2015 and quash the same.

For Petitioner ::

Mr.T.R.Sathiyamohan

ORDER

The Chairman-cum-Managing Director of Hindustan Photo Films Manufacturing Company Limited, Udhagamandalam has brought this writ petition challenging the impugned order dated 21.3.2016 passed by the Deputy Director of Industrial Safety and Health, Udhagamandalam, The Nilgiris, the first respondent herein in Na.Ka.No.810 of 2015.

2. Learned counsel for the petitioner submitted that the petitioner company is a wholly owned Government of India enterprise and incorporated under the Companies Act, 1956. When they are engaged in the manufacture and marketing of photo sensitised goods, they started incurring loss due to severe competition. In view of the continuous loss suffered by the company, at one point of time, when the loss exceeded its net

worth, the company was forced to be referred to the Board for Industrial and Financial Reconstruction (BIFR) to be declared as a sick industry and in the year 1995, the BIFR declared the petitioner company as a sick industry and registered the reference made by the petitioner in Case No.503 of 1996. Subsequently, a Voluntary Retirement Scheme was announced and as a result of the scheme, the employees strength drastically came down to 167. The said scheme was also approved by the Government of India. It was in these circumstances, to take care of the minimal work, the respondents 2 and 3 were initially engaged for a period of three months. Since they were required to work only for five hours a day, taking advantage of the continuous employment, ignoring the fact that their services are not required for the whole day, they preferred applications before the authority under the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 seeking an order for declaring them as permanent workers, on the ground that they have continuously worked for a period of 480 days in two calendar years. The petitioner has also filed a counter affidavit opposing the claim for conferment of permanent status, taking a stand that the respondents 2 and 3 were neither employed through the employment exchange nor engaged on regular basis, therefore, the regularisation of their services cannot be considered. But the first respondent authority, taking into account that the respondents 2 and 3 have worked for more than 480 days in two calendar years, has passed the impugned order. Therefore the same is liable to be set aside, he pleaded.

3. This Court does not find merits in the writ petition. The reason is that admittedly in the present case, the respondents 2 and 3, from the date of their appointment in the year 2002, have been continuously working for more than 14 long years. Therefore, when the pre-condition enunciated under Section 3 of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 has been complied with, the first respondent authority, having been satisfied with the fact that the respondents 2 and 3 have continuously worked for more than 480 days in two calendar years, has allowed their applications for conferment of permanent status and directed the petitioner to give effect to that order. Hence this Court is not inclined to interfere with the impugned order on any of the grounds raised by the petitioner. Accordingly, the writ petition fails and it is dismissed. Consequently, W.M.P.No.38515 of 2016 is also dismissed.

s/d-
Assistant Registrar(CS-VI)

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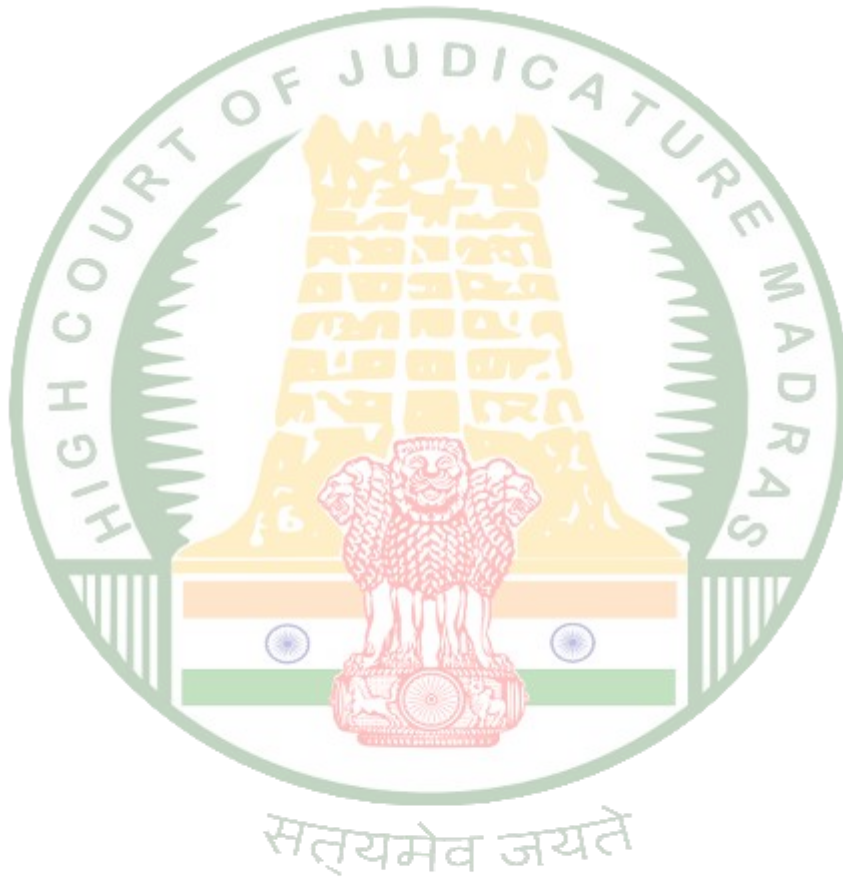
Sub-Assistant Registrar

To

1. The Deputy Director
Industrial Safety & Health
Udhagamandalam
The Nilgiris

W.P.No.44674 of 2016

SCP (CO)
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