

IN THE HIGH COURT OF JUDICATURE AT MADRAS

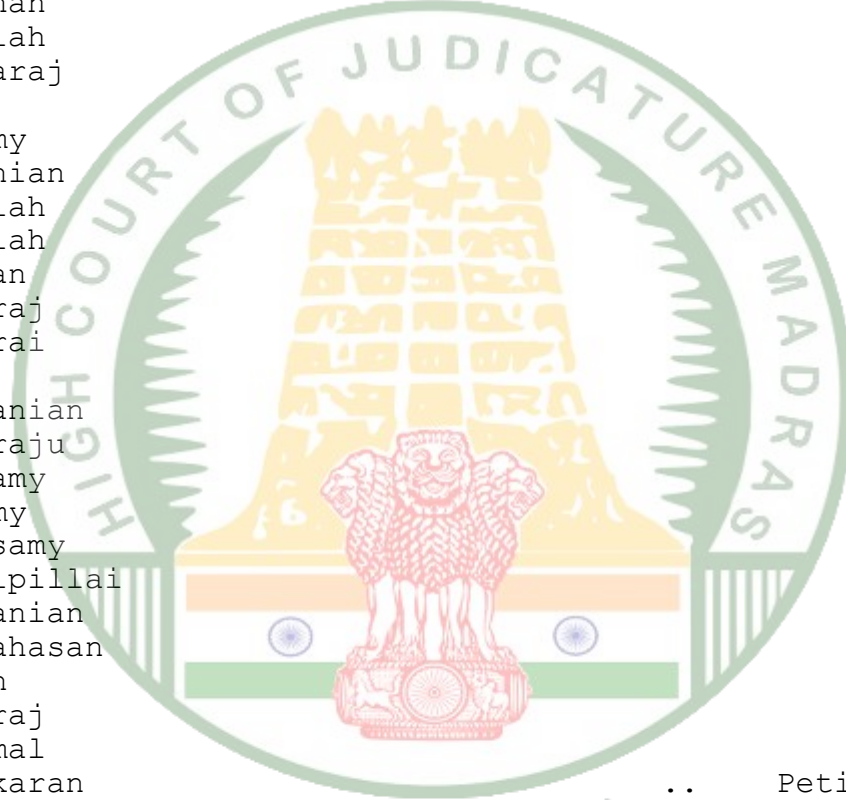
DATED: 30.01.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.6176 of 2016
and WMP.Nos.5521 and 5522 of 2016

- 1.C.Ganeshan
- 2.Karuppaiah
- 3.C.Kanagaraj
- 4.Manivel
- 5.Muthusamy
- 6.Subramanian
- 7.Karuppaiah
- 8.Karuppaiah
- 9.Murugesan
- 10.Sundarraaj
- 11.Annadurai
- 12.Stalin
- 13.Subramanian
- 14.Thangaraju
- 15.Duraisamy
- 16.Balusamy
- 17.Chinnasamy
- 18.Pitchaipillai
- 19.Subramanian
- 20.Chandrasahsan
- 21.Azhagan
- 22.Azhaguraj
- 23.R.Perumal
- 24.Gunasekaran



.. Petitioners

vs.

1. Government of Tamil Nadu,
Rep by its Secretary to Government,
Labour and Employment (P2) Department,
Fort St.George,
Chennai-600 009.
2. The Chairman and Managing Director,
Perambalur Sugar Mills Ltd.,
No.690, Anna Salai,
Nandanam, Chennai-600 035.

3. The Chief Executive,
Perambalur Sugar Mills Ltd.,
No.36, Eraiyur Post,
Perambalur District-621 133.

4.M.Kolanjinathan
5.R.Balusamy
6.K.Veeramuthu
7.A.Ramalingam
8.S.Srinivasan
9.A.Varadharajan
10.M.Rajendran
11.R.Radhakrishnan
12.R.Dhanapal
13.R.Ranganathan
14.A.Murugaiyan
15.V.Palanisamy
16.N.Duraiaraj
17.M.Veerassamy
18.V.Kaliyaperumal
19.G.Thangaraj
20.P.Palanisamy
21.P.Alagamoorthy
22.N.Maheswaran
23.P.Karunanithi
24.M.Sundararaj
25.S.Periasamy
26.M.Pooventhiran

... Respondents

(R4 to R26 impleaded as per the order
dated 30.01.2017 made in WMP.No.8998 of 2016)

Prayer : Writ Petition filed under Article 226 of the
Constitution of India praying for issuance of a Writ of
Certiorarified Mandamus to call for the records of the 1st
respondent made in G.O.(D).No.607, Labour and Employment (P2)
Department dated 5.11.2015 and quash the same and consequently
direct the respondents to regularize the services of the
petitioners in the 3rd respondent Mill with effect from the date
of joining the Mill by bringing them into regular establishment
with all consequential, service and monetary benefits within a
time frame as may be fixed by this Court.

For Petitioner	: Mr.S.Silambanan, Senior Counsel for M/s.Kaavya Silambanan Associates
For Respondent	: Mr.R.A.S.Sethilvel, Additional Government Pleader for R1 Mr.R.Balaramesh, Additional Govt. Pleader (Co.Op.) for R2 and R3

O R D E R

By consent, this Writ Petition is taken up for final disposal.

2. The petitioners would aver that they were working as labourers in the service of the third respondent Mill and it is one of the two Sugar Mills run by the State Government and it engages regular, casual or seasonal NMRs to carryout the work of the sugar mill and the production capacity of the third respondent Mill is 2400 Mts per day in 3 shifts and though the services of the petitioners was termed as casual, they were continued to be engaged for quite long time. It is further averred by the petitioners that they have also sought for regularization of their services and the Assistant Commissioner of Labour has also conducted conciliation proceedings in terms of the Industrial Disputes Act and submitted a Failure Report to the first respondent, who vide impugned Government Order in G.O. (D).No.607, Labour and Employment (P2) Department dated 05.11.2015, has rejected their request for referring the same to the Labour Court for adjudication on the ground that the remedy open to the petitioners is to approach the authority constituted under the Tamil Nadu Industrial Establishment (Conferment of Permanent Status) Act, 1981 and challenging the legality of the same, the petitioners have come forward with this writ petition.

3. Mr.S.Silambanan, learned Senior Counsel appearing for the petitioners would vehemently contend that all the records are with the possession of the third respondent Management and it would clearly disclose that the petitioners had put in 480 days of service in continuous period of two years and as such, they are entitled to be regularized as a matter of right and prays for appropriate orders.

4. Per contra, Mr.R.Balaramesh, learned Additional Government Pleader appearing for the respondents 2 and 3 would submit that in the light of the stand taken by the Industries Department in Letter No.14442/MIC 2/98-4 dated 20.07.1998 that the Sugar Industry cannot be treated as permanent industry, the petitioners are not entitled to invoke the jurisdiction of the authority constituted under the Tamil Nadu Industrial Establishment (Conferment of Permanent Status) Act, 1981 and prays for dismissal of the writ petition.

5. Mr.T.Sundaravadanam, learned counsel appearing for the impleaded respondents would submit that since the impleaded respondents are seniors to the petitioners, their claim for regularization has to be considered first.

6. This Court has considered the rival submissions and also perused the entire materials placed before it.

7. Though it is the stand of the third respondent that the provisions of the Tamil Nadu Industrial Establishment (Conferment of Permanent Status) Act, 1981 are not applicable to the petitioners, the fact remains that the first respondent in the impugned Government Order has directed the petitioner to approach the authority constituted under the said Act for redressal of their grievances and in the light of the same, the stand taken by the administrative department of the third respondent, as on today is untenable.

8. However, this Court, taking into consideration the above facts and circumstances, grants liberty to the petitioners to approach the authority constituted under the Tamil Nadu Industrial Establishment (Conferment of Permanent Status) Act, 1981 in the light of the impugned Government Order of the first respondent in G.O.(D).No.607, Labour and Employment (P2) Department dated 5.11.2015 and if the papers are otherwise in order, the said Authority shall entertain the said petition and give disposal in accordance with law as expeditiously as possible by taking into consideration of the fact that most of the petitioners are aged about 50 years. The impleaded respondents are also at liberty to work out their remedy before the competent forum in accordance with law.

9. This Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

s/d-
Assistant Registrar (CCC)

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Sub-Assistant Registrar

To

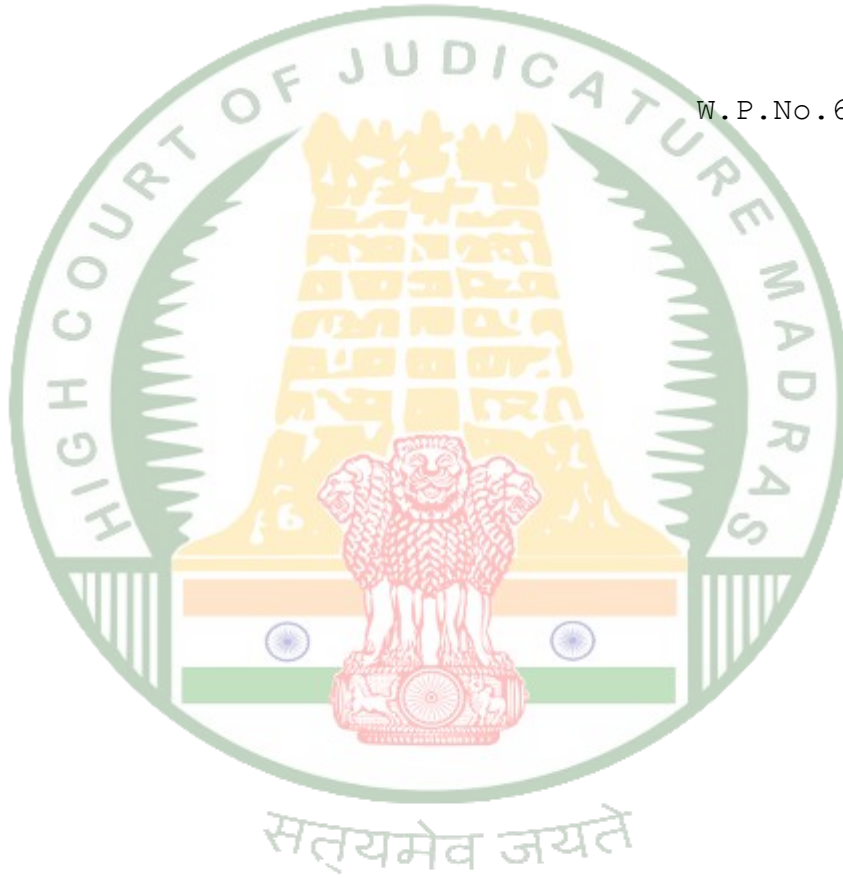
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3. The Chief Executive,
Perambalur Sugar Mills Ltd.,
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+1 CC to M/s. Kaavya silambanan associates Advocate sr 5735
+2 CC to Government Pleader sr 5960,5925
+1 CC to M/s. T. Sundaravadanam, Advocate sr 6094

W.P.No.6176 of 2016

KJ (CO)
sp/2/2



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