

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.03.2017

Coram

The Hon'ble Mr.Justice S.M.Subramaniam

Writ Petition No.39479 of 2004
and
W.M.P.No.47053 of 2004

Chinnasamy

...Petitioner

Vs.

1. The Government of Tamil Nadu,
rep. by its Secretary,
Labour and Employment Department,
Fort St.George,
Chennai - 600 009.

2. The Management of Udayapatti,
Yarn and Silk Handloom Weavers' Co-operative
Society,
rep. by its Special Officer,
Udayapatti, Salem - 140.

...Respondents

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus, directing the first respondent to issue certificate under Section 33c(1) of I.D. Act for recovery of the amount payable to the petitioner by the second respondent, as per the order, dated 28.05.2002, of Labour Court, Salem, in C.P.No.34 of 2001.

For Petitioner : Mr.V.Ajay Khose

For Respondent-1 : Mr.N.Roofus Abraham
Government Advocate

For Respondent-2 : Mr.R.Raghavan

O R D E R

Heard the learned counsel appearing for the petitioner/workman and the learned Government Advocate for the

first respondent/Government and the learned counsel for the second respondent-Management, and perused the materials placed on record.

2. The petitioner is an employee of Udayapatti Yarn and Silk Handloom Weavers' Co-operative Society, and he has filed this Writ Petition, praying for issuance of a writ of mandamus, directing the first respondent to issue Certificate under Section 33-C (1) of Industrial Disputes Act, 1947 (hereinafter, referred to as the 'I.D. Act') for recovery of the amount payable to the petitioner by the second respondent-Management, as per the order, dated 28.05.2002, passed by the Labour Court, Salem, in Computation Petition No.34 of 2001.

3. The learned counsel appearing for the petitioner has submitted that the petitioner had submitted an Application in Form 'U', seeking for issuance of a certificate under sub-section 1 of Section 33-C of I.D. Act for recovery of the award amount, a copy of which, has been annexed at page No.10 of the typed-set of papers filed in support of this Writ Petition. On receipt of the said Application, the first respondent issued a show cause notice, dated 05.12.2003, seeking for an explanation from the second respondent-Management, as to why, certificate under Section 33-C (1) of I.D. should not be issued in favour of the petitioner-workman. It is could be seen from the typed-set of papers that, despite three, show cause notices, dated 08.03.2004, 11.5.2004 and 01.06.2004, had been issued to the second respondent-Management, no reply/explanation is forthcoming from them, nor the first respondent has passed any orders with regard to the application filed by the petitioner. Hence, the petitioner is constrained to approach this Court, by filing this Writ Petition, seeking for the relief, as first stated above.

4. It is painful to note that the Writ Petition is pending before this Court for more than a decade and two years, and till date, neither the second respondent-Management has submitted their explanation, as sought for by the first respondent, nor the first respondent has taken any steps to pass orders with regard to the petitioner's Application.

5. The learned Government Advocate for the first respondent submitted that the Application submitted by the petitioner will be considered on merits and in accordance with law and appropriate orders would be passed and sought for reasonable time for its disposal.

6. In view of the above facts and circumstances of the case, this Court directs the first respondent to consider the

application filed by the petitioner, dated 22.09.2003, taking into account the aforementioned three show cause notices issued by the first respondent to the second respondent-Management and pass final orders within a period of six weeks from the date of receipt of a copy of this order.

7. With the above direction, the Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sd

To

1. The Secretary,
Labour and Employment Department,
Fort St.George,
Chennai - 600 009.
2. The Special Officer,
The Management of Udayapatti,
Yarn and Silk Handloom Weavers' Co-operative
Society,
rep. by its Special Officer,
Udayapatti, Salem - 140.

+1cc to Mr.V.Ajoy Khose, Advocate, S.R.No.19196
+1cc to the Government Pleader, S.R.No.19468

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RJ(CO)
RS(17/05/2017)

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