

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.10.2018

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

W.P.No.22155 of 2004
and W.M.P.Nos.26816 of 2004 and 1646 of 2006

G.Palani, President
Indian National Sugar Mill Workers Federation
No.46, Sannadhi Street, Thiruvalam
Vellore District - 632 515. Petitioner

Vs

- 1.The State of Tamil Nadu
rep.by the Secretary, Industries Department,
Fort St.George, Chennai 600 009.
- 2.The Commissioner of Sugar,
No.690, Anna Salai, Nandanam, Chennai-600 006.
3. The Commissioner of Labour
Teynampet, Chennai - 600 006.
4. Amaravathi Co-operative Sugar Mills Ltd.,
Krishnapuram - 642 111, Udumalpet Taluk
Coimbatore District.
5. Ambur Co-operative Sugar Mills Ltd.,
Vadaputhupet - 635 812, Vellore District.
- 6.Chengalrayan Co-operative Sugar Mills Ltd,m
Periasevalai - 607 209, Ulundurpet Taluk
Villuppuram District.
- 7.Cheyyar Co-operative Sugar Mills Ltd.,
Anakkavur, Thenthandalam, Cheyyar Taluk
Tiruvannamalai District.
- 8.Dharmapuri District Co-operative Sugar Mills Ltd
Jerthalav Post - 636 808 Palacode Taluk
Dharmapuri District.
- 9.Kallakurichi Co-operative Sugar Mills Ltd
Moongilthuraipattu Post - 605702
Villuppuram District.

- 10.M.R.Krishnamoorthy Co-operative Sugar Mills Ltd
Sethiathoppu Post-609 702, Cuddalore District.
- 11.Maduranthagam Co-operative Sugar Mills Ltd
Padalam - 603 308, Kancheepuram District.
- 12.Nadipisai Pulavar K.R.Ramasamy Co-operative Sugar Mills Ltd
Thalainayar - 609 201, Mayiladuthurai Taluk
Nagai District.
- 13.National Co-operative Sugar Mills Ltd
Mettupatty - 625 502, Alanganallur Via., Vadipatty Taluk
Madurai District.
- 14.Salem Co-operative Sugar Mills Ltd
Mohanur - 637 005, Namakkal District.
- 15.Subramania Shiva Co-operative Sugar Mills Ltd
Gopalapuram - 636 904, Papireddypatty Taluk
Dharmapuri District.
- 16.Tirupattur Co-operative Sugar Mills Ltd
Kethandapatty Post - 635 815, Tirupattur Taluk
Vellore District.
- 17.Thiruttani Co-operative Sugar Mills Ltd
Thiruvalankadu - 631 210, Thiruvallur District.
- 18.Vellore Co-operative Sugar Mills Ltd
Ammundi - 632 519, Guidyattam Taluk,Vellore District.
- 19.Komugi Co-operative Sugar Mills Ltd
Kachirapalayam Post, Kallakurichi Taluk
Villuppuram District. ... Respondents

For Petitioner :Ms.P.Geetha

For Respondents:Mr.N.Srinivasan, Addl.Govt.Pleader - for R1 & R3
Mr.L.P.Shanmugasundaram for R2
Mrs.G.Thilagavathi, Senior Counsel
for M/s.R.Gopainath - for R4 to R16
No appearance - for R17 to R19

Prayer : Writ Petition filed under Article 226 of the Constitution of India seeking a writ of Certiorarified Mandamus calling for the records in G.O.(Rt) No.223 dated 28.06.2004 issued by the first respondent and the letter in Rc.No.25816/S&L2/2003 dated 08.07.204 issued by the second respondent and quash the same and consequently direct the first and second respondents to regularise the sum of Rs.2500/- paid as advance in lieu of bonus to the employees for the year 2001-2002 of 4th to 19th respondent sugar Mills and to repay the amount recovered from the workers, who have reached the age of superannuation or resigned or expired.

ORDER

The petitioner is a federation of, unit level workers unions, functioning as sugar mills (respondents 4 to 19). The workers and staff employed under the respondent Mills were paid bonus every year at the rate of 20% of the annual wages for the past several years. In the accounting year 1995-96, even those employees who were receiving salary above Rs.3,500/- were given exemption and bonus was paid. For the accounting year 2000-2001, the bonus was not declared. After conciliation proceedings held by the Minister of the State, it was resolved that a sum of Rs.2500/- shall be paid as advance in lieu of bonus and that the said advance shall be regularised later by a separate advice. The Government, by G.O.(Rt) No.223 dated 28.06.2004, ordered that the advance of Rs.2,500/- paid in lieu of bonus for the year 2000-2001 to the employees of the Co-operative Sugar Mills be recovered in 10(ten) equal instalments at the rate of Rs.250/- per month. Consequently, proceedings in Rc.No.25816/S&L2/2003 dated 08.07.2004 was issued by the second respondent directing the sugar Mills to implement the government order.

2.1. This G.O and the consequential proceedings are under challenge in this writ petition.

3. This Court, by an order dated 04.08.2004, granted interim stay of the operation of the aforesaid government order and the consequential proceedings of the second respondent. The second respondent, by his proceedings dated 07.08.2017 has directed the sugar Mills to comply with the order of this Court, by not effecting recovery of the advance, in lieu of bonus paid for the year 2000-2001.

4. The eleventh respondent, filed a counter affidavit stating that there was no production in their Mills beyond April 2001 and as the Mills was facing acute financial crisis, they had not paid any bonus advance to their employees for the year 2000-2001 and hence no recovery is necessary to be made as indicted in the circulars and the dispute regarding recovery of bonus advance does not arise in respect of the eleventh respondent Mills.

5. The recovery order has been passed way back in the year 2004. In the mean time, some employees would have retired on account of superannuation; some might have died; some might have resigned; some might have opted for voluntary retirement; some might have repaid the amount, for some recovery might have been completed. Therefore, permission is granted to effect the recovery from those employees who have received the sum of Rs.2,500/- as advance in lieu of bonus with an undertaking to pay in 10 easy instalments and this recovery would not be permissible for those who have already repaid the amount or from whose account already recovery has been made and those who have died, resigned, attained superannuation and obtained voluntary retirement.

6. With the above directions, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(Co)

//True Copy//

Sub Assistant Registrar

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To

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rep.by the Secretary, Industries Department,
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Villuppuram District.

+1cc to Ms.P.Geetha , Advocate SR.No. 69879
+1 CC TO GOVERNMENT PLEADER SR.NO. 70113
+1cc to M/s.R.Gopainath , Advocate SR.No.69633

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ASK(03/12/2018)

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