

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.10.2018

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

W.P.No.25323 of 2018 &
WMP.No.29461 of 2018

Kallakurichi Co-operative Sugar Mills
Dhina Koolie Thozhilalar Sangam STA-309/1984
Moongil Thuraipattu - 605 702
Sankarapuram Taluk, Villupuram District - 605 702
rep.by Secretary Mr.L.Devendran ..Petitioner

Vs.

- 1.The Government of Tamil Nadu
The Secretary to Govt. Industries (MIC-2)
Department, Secretariat, Chennai 600 009.
- 2.The Commissioner of Sugars
No.474, Anna Salai, Chennai-600 035.
- 3.The Management
Kallakurichi Co-op Sugar Mills Limited Unit I
rep.by its Special Officer, Moongilthuraipattu
Sankarapuram Taluk, Villupuram District-605702.
...Respondents

For Petitioner : Mr.Balan Haridas
For Respondents : For Mr.J.Muthukumaran
Mr.S.Soundhararajan,
Government Advocate - for R1
Mr.L.P.Shanmugasundaram,
Spl.Govt.Pleader - for R2
Mr.R.Balaramesh, Addl.Govt.Pleader
(Assisted by Mr.K.Vasanthanarayan)
- for R3

Prayer : Writ Petition filed under Article 226 of the Constitution of India seeking a writ of Mandamus directing the second and third respondents to appoint the remaining 15 members of the union in Kallakurichi Co-operative Sugar Mill Dhina Coolie Thozhilalar Sangam in the existing vacancies in the respondent sugar Mill in the light of the Award dated 25.05.2011 in I.D.No.82/2009, Labour Court, Cuddalore and as per the directions of this Honourable High Court in W.P.No.13097 of 2013 dated 15.04.2014 by considering the representation of the petitioner union dated 19.09.2018.

O R D E R

This writ petition has been filed by the Kallakurichi Co-operative Sugar Mills Dhina Koolie Thozhilalar Sangam, seeking direction to the second and third respondents to appoint the remaining 15 members of the union in Kallakurichi Co-operative Sugar Mill Dhina Coolie Thozhilalar Sangam in the existing vacancies in the respondent sugar Mill in the light of the Award dated 25.05.2011 passed in I.D.No.82/2009 of the Labour Court, Cuddalore and as per the directions of this Honourable High Court in W.P.No.13097 of 2013 dated 15.04.2014 by considering the representation of the petitioner union dated 19.09.2018.

2. Paragraph 3 of the order dated 15.04.2014 in W.P.No.13097 of 2013, reads as follows.

"3. In the counter affidavit filed by respondent No.3, it has been submitted that there is an award passed in favour of the petitioner union in I.D.No.82 of 2009 by which appropriate directions have been passed. It is not in dispute that in I.D.No.82 of 2009, respondent No.3 was a party. The award passed on 25.5.2011 has become final between the parties, After considering the respective contentions, the labour Court, Cuddalore passed the following award, which is extracted herein:

9. In the result, this Industrial Dispute is allowed. The petitioners / workers mentioned in the list attached to this petition are entitled to get regularization for postings in the vacancies in the respondent / management on seniority basis according to their educational qualifications and according to their technical qualifications if the petitioners who do not have requisite qualifications they have to be regularized in their service on their seniority basis for postings in the vacancies in the case of mazdoors. In cases where the qualification is not required, the respondent / management should utilize the services of the daily wagers ie., the petitioners alone are to be engaged for daily works in the seasons and the respondent / management should not go out side for fresh hands. No costs. An award is passed accordingly."

3. In view of the undisputed factual position, this Court is of the view that it is just and appropriate to direct respondents 2 and 3 to comply with the award passed in I.D.No.82 of 2009 dated 25.5.2011 on the file of Labour Court, Cuddalore. The said exercise will have to be done within a period of three months from the date of receipt of copy of this order. Till such time, the status quo as on today shall be maintained."

3. Today (10.10.2018), a counter affidavit has been filed by the third respondent in which it is stated that there is permitted number of sanctioned list of workers is 529 , out of which there are 350 vacancies. It is also stated that apart from regular vacancies, there are 100 applications are pending for consideration seeking appointment on compassionate grounds from the year 1977 till date.

4. Needless to point out that the labour court award of the year 2011 and the order of this Court of the year 2014, are yet to be complied with. That has driven the petitioners to file the writ petition after writ petition. It was represented that serious efforts are being made by the management to fill up the posts by appointing petitioners seeking compassionate appointment, while not considering the case of the petitioners herein. The contention of the petitioners are justified and it is not known why the appointment on compassionate ground were not effected even from the year 1977. The very purpose of compassionate appointment would be lost if those applications are kept pending for such a long time. However, that cannot be taken advantage of with a purpose to deprive the petitioners of the benefit that was given by the order of the labour court and this Court.

5. Under the circumstances, the second and third respondents are directed to comply with the award dated 25.05.2011 in I.D.No.82/2009, Labour Court, Cuddalore and the directions of this Honourable High Court in W.P.No.13097 of 2013 dated 15.04.2014, within a period of one month, from the date on which the election results of the third respondent society are declared. Till such time, status quo ante with regard to the fresh appointment shall be maintained.

kst

Sd/-

Assistant Registrar(CS IX)

//True copy//

Sub Assistant Registrar

TO

1. The Secretary to Govt.
The Government of Tamil Nadu, Industries (MIC-2)
Department, Secretariat, Chennai 600 009.
2. The Commissioner of Sugars
No.474, Anna Salai, Chennai-600 035.
3. The Special Officer,
The Management
Kallakurichi Co-op Sugar Mills Limited Unit I
Moongilthuraipattu,
Sankarapuram Taluk,
Villupuram District-605 702.

+1cc to Mr.J.Muthukumaran, Advocate SR.No.70178
+1cc to Mr.R.Bala Ramesh, Advocate SR.No.70095
+1cc to Government Pleader SR.No.71069

KR/20/11/18

W.P.No.25323 of 2018



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