

IN THE HIGH COURT OF JUDICATURE AT MADRAS

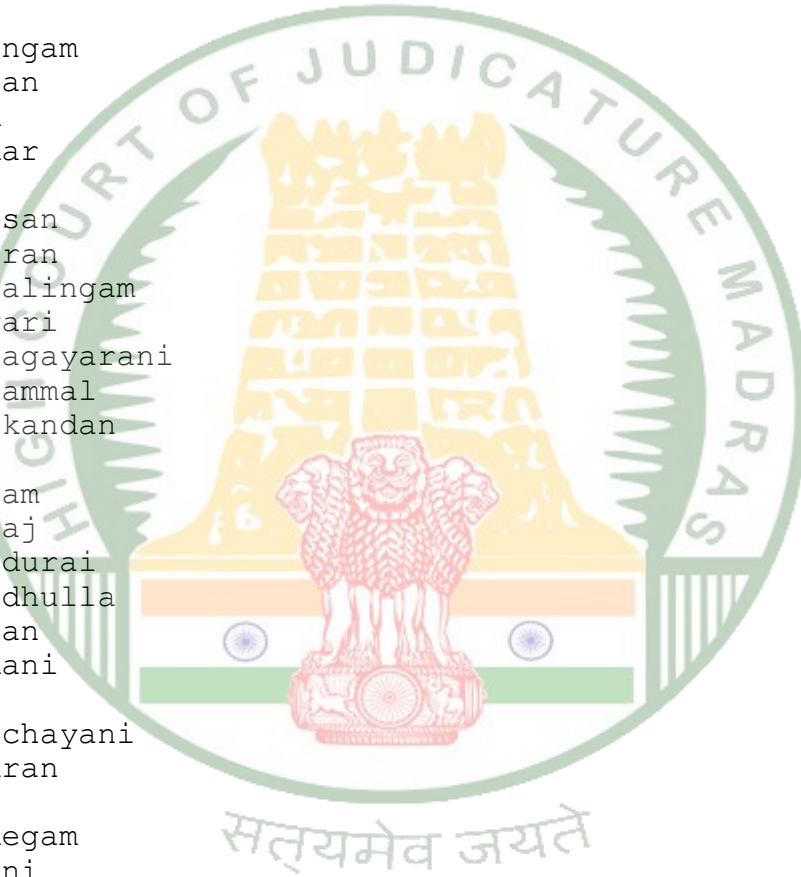
DATED 30.10.2019

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.38506 of 2002

1. G.Mohan Rao
2. J.Prabhu
3. P.Madhalingam
4. G.Pavithran
5. M.Abraham
6. P.Ravikumar
7. U.Vijaya
8. K.Jagadeesan
9. P.Sudhakaran
10. P.Sankaralingam
11. K.Mageswari
12. Juliet Sagayarani
13. Y.Yasodhammal
14. K.R.Manikandan
15. H.Santhi
16. P.Sundaram
17. N.Kembaraj
18. K.Chelladurai
19. P.Rahamadhulla
20. K.R.Pellan
21. N.Subramani
22. K.R.Ravi
23. M.P.Dhatchayani
24. K.Magendran
25. C.Geetha
26. K.Neelamegam
27. P.Rajamani
28. P.Krishnan
29. S.Rajakani
30. S.Magesh
31. P.Eswaran
32. N.P.Mohan
33. H.Abdul Ajoos
34. P.K.Vijayan
35. S.Ragupathy
36. K.Paulraj
37. N.Lakshmanan
38. E.Ramakrishnan
39. M.Bathra Bagadhur



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40. M.Top Bagadhur
41. Kattaga Bagadhur
42. B.R.Belliraj
43. H.N.Raju
44. R.Udhayakumar
45. K.B.Vasantharaj
46. K.P.Prakash
47. E.K.Kandasamy
48. R.Eswaran
49. A.Sugumar
50. J.Pojan
51. K.Natarajan
52. K.Hallan
53. B.Hallan
54. M.Rangaraj
55. V.Noor Mohamed
56. G.SubramaniPetitioners

..Vs..

1. The Presiding Officer,
Labour Court,
Coimbatore.
2. The Management of Nilgiris District,
Plantation Workers Co-operative Credit Society Ltd.,
Rokeby, Coonoor,
Nilgiris District. Respondents

Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the common order dated 10.01.2001 passed by the first respondent in C.P.Nos.391 to 404 of 1999, quash the same and consequently, direct the second respondent to pay the petitioners the amount as claimed in the C.Ps. together with the interest, award costs.

For Petitioners : Mr.V.Ajoy Khose

For Respondents : Labour Court (for R.1)
No Appearance (for R.2)

ORDER

The order dated 10.01.2001 passed by the first respondent in C.P.Nos.391 to 404 of 1999 is under challenge in the present writ petition.

2.The writ petitioners were the employees of the second respondent/the Management of Nilgiris District Plantation

Workers Co-operative Credit Society Ltd. The wages and other conditions of service of workmen are governed by the settlements entered into between the workmen and the second respondent under Section 12(3) of the Industrial Disputes Act. The said settlement was given effect from 01.07.1988. However, the monetary benefits flowing out of the settlement was given effect only from 01.07.1989. The period of the above settlement expired on 30.06.1994.

3.The grievance of the writ petitioner is that there was a deduction from the salary with effect from March, 1998 till the date of filing of the Claim Petition before the Labour Court, i.e., for about 17 months to the tune of Rs.250/- per month amounting to Rs.4,250/-. The learned counsel appearing on behalf of the petitioner states that such a deduction from the salary of the workmen is illegal and violation of the settlement conditions. He further submitted that no notice or opportunity was given to the employees and further deduction from the salary was not justified.

4.The Labour Court adjudicated the issues and arrived at a conclusion that in respect of the wage deduction and the other grievances, an industrial dispute was raised and therefore issues are to be decided in that industrial dispute. Contrarily, the claim petition was filed under Section 33-C(2) of the Industrial Disputes Act, which is not maintainable, as the disputed issues of the workmen cannot be decided under Section 33-C(2) of the Industrial Disputes Act. For the purpose of filing the claim petition under Section 33-C(2), the workmen have to establish that there is a pre-existing right and in the event of not establishing any such pre-existing right, Section 33-C(2) cannot be invoked by the Labour Court.

5.In the present writ petition, there was deduction in the salaries of the writ petitioners on account of certain disputes in respect of the settlement. An industrial dispute has been raised in this regard and therefore the claim petition filed is without jurisdiction and cannot be entertained. The Labour Court in its findings categorically arrived at a conclusion that whether the workmen are entitled for deducted amount or not has to be decided in an industrial dispute. The writ petitioners have not established any pre-existing right under Section 33-C (2) of the Industrial Disputes Act. Therefore, there is no error in respect of the findings that there should a pre-existing right for entertaining a Claim Petition under Section 33-C(2) of the Act.

6.This being the factum, the writ petitioners are not entitled to any relief as such sought for and there is no infirmity in the order passed by the Labour Court. Accordingly,

the order dated 10.01.2001 passed by the first respondent in C.P.No.391 to 404/1999 is confirmed and the writ petition stands dismissed. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

- 1.The Presiding Officer,
Labour Court,
Coimbatore.
- 2.The Management of Nilgiris District,
Plantation Workers Co-operative Credit Society Ltd.,
Rokeby, Coonoor, Nilgiris District.

+lcc to Mr.V.Ajoy Khose, Advocate Sr.90188

W.P.No.38506 of 2002

pvs[co]
srg 06/12/2019



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