

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2019

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.12878 of 2003

and

W.P.M.P.Nos.16135 & 25049 of 2003

The President,
CPCL-TTP Contract Employees,
Progressive Union,
Regd.No.125/TVR/2000,
No.44/2, South Mada Street,
Thiruvottiyur,
Chennai - 600 019Petitioner

Vs.

- 1.Deputy Chief Labour Commissioner(C)
III Main, III Cross,
II Phase, Tumkur Road,
Yeshwantpur,
Bangalore - 560 022
- 2.The General Manager,
Chennai Petroleum Corporation Ltd.,
CPCL-TTP-RO Plant,
Manali, Chennai - 600 068
- 3.M/s.Hindustan Door Oliver Ltd.,
Door Oliver House, New No.38,
Rukmini Lakshmi Pathy Road,
Egmore, Chennai - 600 008Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records on the files of the first respondent pertaining to his order bearing no.nil and dated 31.3.2003 and quash the same and consequently direct the respondents to fix appropriate wage rate, holidays, hours of work and conditions of service of the workmen of the contractor as per Rule 25(2) (v) (a) (b) of the Contract Labour (Regulation & Abolition) Rules 1971.

For Petitioner : M/s.A.V.Bharathi

For Respondents : Mr.S.VeeraBagu
[For R1]

Mr.Sanjay Mohan
For M/s.S.Ramasubramaniam
& Associates
[For R2]

Mr.Sai Prasad
For M/s.Sai Raaj Associates
[For R3]

O R D E R

The order dated 31.03.2003 passed by the 1st respondent / Deputy Chief Labour Commissioner, is sought to be quashed in the present writ petition.

2. On account of the developments took place during the long pendency of the writ petition, this Court is of an opinion that the detailed facts narrated, deserve no further adjudication.

3. The learned counsel appearing on behalf of the 3rd respondent brought to the notice of this Court that the 3rd respondent company was wound up and the employees are not working. The employees, who all are the members of the writ petitioner are not working with the 3rd respondent. The order of the 1st respondent reveals that the claim of the members of the writ petitioner Union for salary and other benefits on par with the employees of the Principal employer namely Chennai Petroleum Corporation Limited was rejected.

4. The learned counsel appearing on behalf of the 2nd respondent also reiterated that equal salary and other benefits can be granted, only if the duties and responsibilities of these workmen are similar. However, the 1st respondent himself found during the adjudication that the duties and responsibilities are dissimilar and accordingly, rejected the claim of the writ petitioner Union for grant of equal salary on par with the workmen working with the Principal employer namely Chennai Petroleum Corporation Limited.

5. However, the 3rd respondent company is would up. The members of the writ petitioner Union are not working with the writ petitioner Union. Thus, the cause aroused as well as the grievances sought to be redressed did not exists as of now. Even in such cases of revival of the company by the 3rd respondent, only in the event of establishing that the duties and responsibilities are similar to that of the workmen

working with the Principal employer, the equal benefits cannot be granted or claimed.

6. This being the factum, no further adjudication needs to be entertained in respect of the other grounds raised in the present writ petition. Accordingly, the order passed by the 1st respondent in proceedings dated 31.03.2003 is confirmed and the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed. The learned counsel for the 2nd respondent made a submission that at the time of admission of the writ petition, an interim order was passed by this Court on 01.08.2003 in W.P.M.P.No.25049/2003, directing the 2nd respondent to furnish Bank Guarantee. In view of the dismissal of the writ petition, the Bank Guarantee furnished by the 2nd respondent stands released.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. Deputy Chief Labour Commissioner(C)
III Main, III Cross,
II Phase, Tumkur Road,
Yeshwantpur,
Bangalore - 560 022.

2. The General Manager,
Chennai Petroleum Corporation Ltd.,
CPCL-TTP-RO Plant,
Manali, Chennai - 600 068.

+1cc to M/s.Ramasubramaniam & Associates, Advocate Sr.90902
+1cc to M/s.A.V.Bharathi, Advocate Sr.90579

W.P.No.12878 of 2003

mp[co]
srg 03/12/2019