

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 30.10.2019

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.22653 of 2003

&

W.M.P.Nos.28021 of 2003 & 2168 of 2004

The Management of

Anai Mudi Estate

Bombay Burmah Trading Corporation Ltd.,

Mudis Post, Coimbatore District - 642 117,

rep by Estate Manager.

...Petitioner

..Vs..

1.The Presiding Officer,

Labour Court, Coimbatore.

2.Tmt.Nabeesa

...Respondents

Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records of the first respondent in I.D.No.316/2001 and quash its award dated 10.12.2002.

For Petitioner : Mr.Anand Gopalan
for M/s.T.S.Gopalan & Co.

For Respondents : Labour Court (for R.1)
Mr.R.Balasubramaniam (for R.2)

ORDER

The award dated 10.12.2002 passed in I.D.No.316 of 2001 is under challenge in the present writ petition.

2.The learned counsel appearing on behalf of the writ petitioner states that the petitioner employs nearly 2500 workmen in the Tea Estate. Their employment is governed by the Plantation Labour Act, 1951 read with Tamil Nadu Plantations Labour Rules, 1955. In terms of Section 15 of the Act, it is the duty of every employer to provide and maintain necessary housing accommodation for every worker, including his family residing in the plantation. Rules 43 to 51 of the Tamil Nadu Plantation

Labour Rules, 1955 deals with various regulations on provision of housing accommodation for workmen in the Estate. Rule 50(6) provides that no cattle or goats shall be kept in the housing accommodation, without the permission of the employer. Clause 23 (29) of the Certified Standing Orders states that "bringing or keeping cattle on the estate without permission of the management or in violation of any scheme regulating cattle keeping" is misconduct.

3.The second respondent/workman was working as general worker with the petitioner. Her husband was also working with the petitioner. They were provided with the living quarters. The second respondent was dismissed from service on 13.11.1992 petitioner for owning more cattle than permitted by the employer. Subsequently, during October, 1994 the second respondent was reinstated in employment after she disposed the excess cattle owned by her. On 08.10.1999, a complaint was made keeping 2 goats and 2 heifers as against one cow and one heifer permitted by the petitioner.

4.Thus, a show cause notice was issued to the second respondent calling upon for written explanation for keeping excess cattle without the permission of the petitioner/management. The second respondent submitted her explanation on 04.11.1999 and subsequently a charge sheet was issued on 09.11.1999 and domestic enquiry was conducted. The second respondent was dismissed from service on 21.02.2000 and thereafter she raised an industrial dispute in I.D.No.316/2001 before the first respondent. On 10.12.2002 the first respondent passed an award granting reinstatement in service with backwages and other attendant benefits. Challenging the said order the present writ petition is filed.

5.It is brought to the notice of this Court that the second respondent attained age of superannuation on 31.03.2004. The learned counsel appearing on behalf of the petitioner states that even presuming that the second respondent is entitled for backwages, the same cannot be granted at this point of time, in view of the fact that the second respondent has excess cattle in her quarters for the past more than 19 years, i.e., from the date of termination. No rent is being collected by the management and therefore, the management need not pay any amount as the rent for the quarters occupied by the second respondent, which is to be adjusted with the backwages.

6.However, this Court is of the opinion that the quarters was allotted to the second respondent when she was in service

and no rent was fixed at the relevant point of time. Thus, it may not be proper to fix rent at this length of time. Contrarily, the backwages already deposited is to be paid to the second respondent/workman. Thus, at this length of time, this Court is not inclined to go into the merits and demerits of the matter at this point of time as the parties are willing to close the writ petition on these lines. The learned counsel appearing on behalf of the writ petitioner made a submission that amount of deposit already made may be given to the workman and the workman shall be directed to vacate the quarters. At the time of admission of the writ petition, the writ petitioner/management deposited a sum of Rs.29,850/- in favour of the proceedings of the Labour Court, Coimbatore on 10.12.2002.

7.The learned counsel appearing on behalf of the second respondent also has no serious objections in respect of the proposal made by learned counsel appearing on behalf of the writ petitioner/ management. In view of the submission made by the counsel on either side, this Court is inclined to pass following orders;

(i)The second respondent/workman is directed to vacate the quarters allotted by the writ petitioner/management and handover the possession within a period of 30 days from the date of receipt of copy of this order.

(ii)On receipt of the possession the writ petitioner / management is directed to issue a certificate to that effect in favour of the second respondent stating that the second respondent has vacated the official quarters.

8.The second respondent is at liberty to file an application along with certificate issued by the management before the first respondent / Labour Court for the withdrawal of the deposited amount with accrued interest. In the event of receiving any application from the second respondent, the Labour Court is directed to disburse the deposited amount in favour of the second respondent within a period of 30 days from the date of receiving an application. It is made clear that the second respondent is not entitled for any other benefits from the management other than statutory benefits for which the second respondent is legally entitled to.

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

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

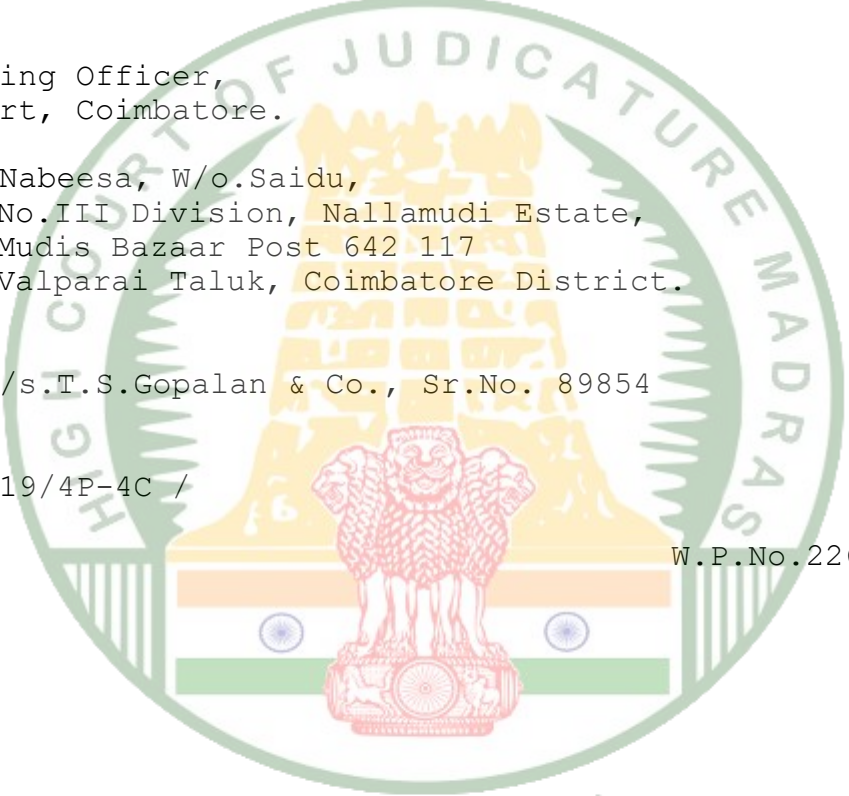
The Presiding Officer,
Labour Court, Coimbatore.

Copy to : Nabeesa, W/o.Saidu,
No.III Division, Nallamudi Estate,
Mudis Bazaar Post 642 117
Valparai Taluk, Coimbatore District.

+1 cc to M/s.T.S.Gopalan & Co., Sr.No. 89854

AKM/06.12.19/4P-4C /

W.P.No.22653 of 2003



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