

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.10.2019

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

W.P.Nos.35900 & 35901 of 2003

and

W.P.M.P.Nos.43623 & 43625 of 2003

and

W.M.P.Nos.16933 & 16934 of 2006

- 1.M.Venkateswaran
- 2.Palayam
- 3.Kamalambal
- 4.Mrs.Tamilarasi
- 5.K.Sivaraj
- 6.Mrs.Baby
- 7.Mrs.Parameswari
- 8.Sengani Ammal

...Petitioners in both W.Ps

vs

1. Presiding Officer,
Principal Labour Court/Central Government
Labour Court, Chennai.
2. Food Corporation of India,
Rep.by its Managing Director,
Chennai - 600 108
3. Food Corporation of India,
Rep.by its Joint Manager.
Chennai-600 108

...Respondents in both W.Ps

Prayer in W.P.No.35900 of 2003 : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the common order dated 28.10.2003 in I.A.No.138/95 in CCP No.169/90 passed by the 1st respondent and quash the same as being illegal, arbitrary and unconstitutional.

Prayer in W.P.No.35901 of 2003 : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the common order dated 28.10.2003 in I.A.No.139/95 in CCP No.169/90 passed by the 1st respondent and quash the same as being illegal, arbitrary and unconstitutional.

For Petitioners : Mr.V.Govardhanan
For M/s.Row & Reddy
(in both W.Ps)

For Respondents : R1 - Central Government Labour Court
(in both W.Ps)

Mr.A.S.Thambuswamy for R2 & R3
(in both W.Ps)

C O M M O N O R D E R

The common order dated 28.10.2003 in I.A.Nos.138 & 139 of 1995 in CCP.No.169 of 1990 passed by the 1st respondent are under challenge in the present writ petitions.

2. The petitioners filed CCP.No.169 of 1990, claiming difference in VRS amount due to 299 workers, who went on Voluntary Retirement Scheme, pursuant to the notice dated 30.06.1986.

3. The grievances of the writ petitioners are that they have not been paid the agreed amount and consequently, they filed CCP.No.169/1990 before the 1st respondent for computing the dues in the amount. The respondents 2 and 3, failed to file any counter affidavit and consequently, the Labour Court passed an Exparte order. On 27.04.1992, Exparte evidence was recorded and an order was passed by the 1st respondent, computing the dues in amount of VRS due to the petitioners. Thereafter, the respondent Food Corporation of India, filed two Interlocutory Applications, one to condone the delay in filing the set aside petition and another to set aside the Exparte order passed by the Labour Court. There was a delay of 279 days in filing the application to set aside the Exparte order dated 27.09.1992.

4. The learned counsel for the petitioners state that no sufficient reasons were provided for condoning such a huge delay of 279 days in filing the set aside Exparte order petition. Thus, the order of the Labour Court is perverse. The Labour Court has not considered the fact that the petitioners are longing for several years to get the differential amount, consequent to the acceptance of their VRS applications.

5. This Court is of the considered opinion that admittedly, an Exparte order was passed by the Labour Court. In respect of the Exparte orders, the Courts are bound to take lenient view as the issues are to be decided on merits, after complete adjudication. Only in the event of deciding the issues on

merits, the rights of the parties can be crystallized and appropriate remedy can be granted. Contrarily, the Court cannot encouraged the execution of Exparte orders in a routine manner. Undoubtedly, the respondents were not vigilant in pursuing the matter and allowed the Labour Court to pass an Exparte order. The conduct of the respondents in this regard is to be deprecated. However, the Food Corporation of India being a Public institution, the execution of the Exparte order cannot be encouraged.

6. Under these circumstances, this Court is of an opinion that the issues raised by the petitioners in CCP.No.169 of 1990 are to be adjudicated on merits, after affording an opportunity to all the parties concerned. Such an exercise is to be done by the competent Court within the reasonable period of time. Under these circumstances, there is no infirmity or perversity in respect of the common order passed in two Interlocutory Applications, condoning the delay in filing the set aside Exparte order as well as setting aside the Exparte order passed by the Labour Court.

7. The learned counsel for the writ petitioners brought to the notice of this Court that now the cases are transferred to the Central Government Industrial Tribunal situated at Shastri Bhavan. If that is the case, the Labour Court has to take appropriate action to transfer the case to the competent Tribunal for the purpose of deciding the cases on merits and in accordance with law. Such an exercise is to be done as expeditiously as possible preferably within a period of Six Months and the parties are also bound to cooperate for early disposal of the case as the matter is pending for long time. Unnecessary adjournments are to be avoided and the Court also must be vigilant in pursuing the matter and dispose of the same on merits.

8. This being the factum, the Common order dated 28.10.2003 in I.A.Nos.138 & 139 of 1995 in CCP.No.169 of 1990 passed by the 1st respondent are confirmed and both the writ petitions stand dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

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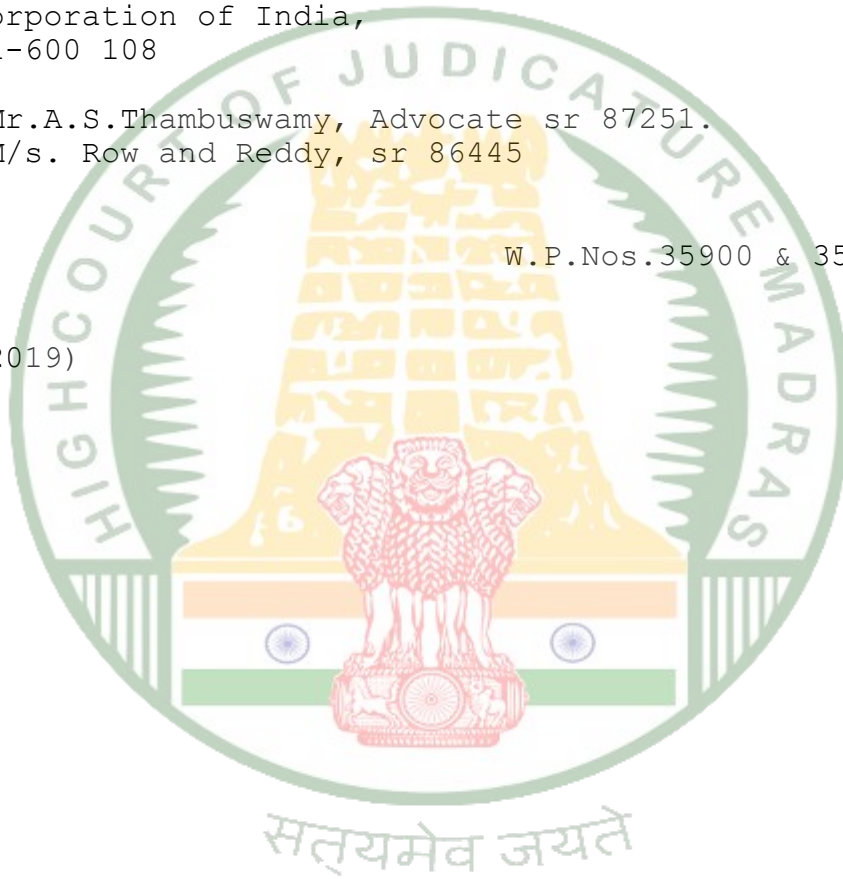
To

1. Presiding Officer,
Principal Labour Court/Central Government
Labour Court, Chennai.
2. The Managing Director,
Food Corporation of India,
Chennai - 600 108
3. The Joint Manager,
Food Corporation of India,
Chennai-600 108

+1 CC to Mr.A.S.Thambuswamy, Advocate sr 87251.
+1 CC to M/s. Row and Reddy, sr 86445

W.P.Nos.35900 & 35901 of 2003

PVS(CO)
SP(25/11/2019)



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