

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2019

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.14268 of 2009

Thamizhaga Civil Supplies Corporation

Thozhilalar Sangam,

Rep. By its State General Secretary

Mr.A.K.Elumalai,

No.29/11, Kannagi Street,

M.G.R.Nagar, Chennai - 78.

.. Petitioner

Vs

Tamil Nadu Civil Supplies Corporation Ltd.,

Rep. By its Managing Director,

No.42, Thambusamy Road,

Kilpauk, Chennai - 10.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari to call for the records on the file of the respondent relating to the impugned order in Rc.No.AE2/16443/09, dated 20.06.2009, and quash the same inasmuch as it surrenders 265 posts of Junior Assistants and 31 posts of Superintendents.

For petitioner : Mr.S.Kishore Kumar

For Respondent :Mr.V.Selvanayagam, standing counse

ORDER

The present writ petition is directed against the impugned proceedings dated 20.06.2009 of the respondent / the Managing Director, Tamil Nadu Civil Supplies Corporation Limited, Chennai, surrendering 265 posts of Junior Assistants and 31 posts of Superintendents.

2. It is submitted by the learned counsel for the petitioner that the petitioner / Thamizhaga Civil Supplies Corporation Thozhilalar Sangam, is a registered Trade Union under the Trade Unions Act. The petitioner's union members include the persons working as Junior Assistant and Superintendent and also the employees in the cadres of Bill Clerk and Assistants, who are feeder category to the above said

posts. Whiles, the respondent Corporation, being a Company incorporated under the Indian Corporation Act, without issuing any notice to the petitioner Union, all of a sudden has passed the present impugned proceedings dated 20.06.2009 deciding to surrender 265 posts of Junior Assistants and 31 posts of Superintendents so as to create the same number posts in the cadre of Data Entry Operator and Technical Supervisor for the purpose of computerization of Godowns functioning under the respondent Corporation. Therefore, it is contended, the said order has been passed in an urgent manner only in view of the pressure from the review meeting of Integrated Information System on Food Grains Management, hence, the impugned decision of respondent Corporation to surrender existing posts is not only going to jeopardize the work in the Godowns, but also trigger large scale reversion/retrenchment of the employees, therefore, on this basis, he pleaded, the impugned order passed by the respondent Corporation is liable to be set aside.

3. It is further submitted that the impugned order also failed to note the rights of employees working in the cadres of Junior Assistants and Superintendents, since they are going to face reversion/retrenchment. When the respondent Corporation is an industry within the meaning of the Industrial Disputes Act, the impugned action of them reducing the number of posts directly falls under Schedule IV of the Act, therefore, the impugned action of the respondent, that too, without any notice under Section 9-A of the Industrial Disputes Act, is liable to be set aside.

4. Per contra, learned standing counsel appearing for the respondent Corporation, by filing a detailed counter affidavit, submitted that during the review of staff strength for utilization of Computers in the Godwon, a project was introduced on 21.01.2009 and they were instructed to improve the utilization of the computerization project effectively in all the Godowns by providing 270 computers. However, despite repeated instructions / trainings, they failed to learn to operate computers as they do not have adequate knowledge in the computer operation. Therefore, the Board, in its 413th Meeting, held on 18.05.2009, resolved and agreed to create the required number of posts of Junior Assistant-cum-Data Entry Operator by surrendering equal number of posts and recruit them through employment exchange. Hence, it is pleaded, when the Board had resolved to create 265 posts of Data Entry Operators and 31 posts of Technical Supervisors by surrendering equal number of posts in the cadres of Junior Assistant and Superintendent through employment exchange, there is nothing wrong in passing the impugned order to the said effect.

5. Further, it is stated that the Government of India have provided 270 computers to the operational / buffer godowns during June, 2008, through Food Corporation of India, however, those computers were kept idle for want of qualified Data Entry Operators and Technical Supervisors, hence, it is submitted, as stated above, the Board, in its Meeting held on 18.05.2009, have ordered to recruit required number of posts of Junior Assistants-cum-Data Entry Operators and Computer Technical Supervisors through employment exchange by surrendering the equal number of posts in the cadres of Junior Assistant and Superintendent. Subsequently, pursuant to the decision taken in the Board Meeting, the present impugned order has been passed surrendering 265 posts of Junior Assistants and 31 posts of Superintendents, hence, the writ petition filed by the petitioner challenging the said impugned decision is liable to be dismissed.

6. I also find merit on the above said submissions, the reason being that to avert malpractice and misuse of Public Distribution System goods and also to meet out the heavy accounting systems, the Government of India have provided 270 computers to the operation of Godowns during June, 2008, through Food Corporation of India. However, those computers were kept idle for want of qualified Data Entry Operators and Technical Supervisors in Regions. Therefore, the Board, in its 413th Meeting held on 18.05.2009, had resolved to recruit required number of posts in the cadres of Junior Assistant-cum-Data Entry Operator and Computer Technical Supervisor through employment exchange by surrendering the equal number of posts in Junior Assistant and Superintendent. It is also averred in the counter affidavit that if the computers provided are operated effectively, then there is no need to prepare manual documents, viz., memo/truck memo/acknowledgment/delivery orders. Therefore, by following the said decision taken by the Board, only to meet out the heavy accounting system and also to avert malpractice in Public Distribution System, the present impugned order has been passed surrendering 265 posts of Junior Assistants and 31 posts of Superintendents in order to recruit such number of posts in the category of Data Entry Operator and Technical Supervisor. Hence, such an impugned action of the respondent, in my considered view, cannot be questioned by the petitioner.

7. Thus, for the reasons stated above, the writ petition fails and the same is dismissed as devoid of any merit. No Costs. M.P.No.2 of 2009 is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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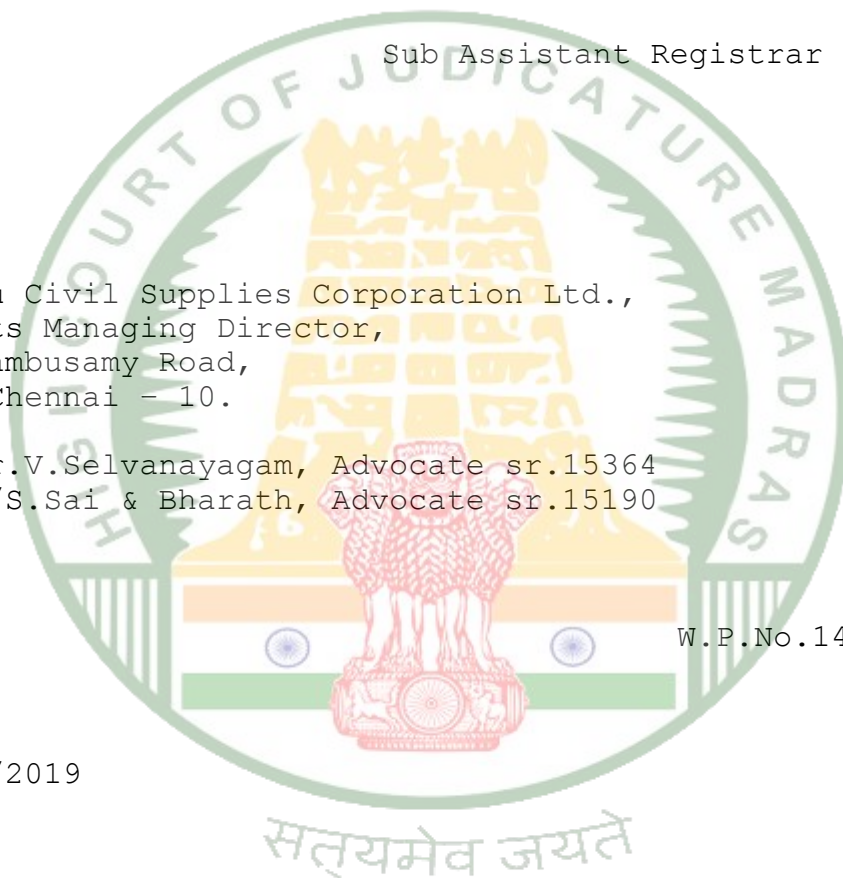
Tamil Nadu Civil Supplies Corporation Ltd.,
Rep. By its Managing Director,
No.42, Thambusamy Road,
Kilpauk, Chennai - 10.

+1cc to Mr.V.Selvanayagam, Advocate sr.15364

+1cc to M/S.Sai & Bharath, Advocate sr.15190

W.P.No.14268 of 2009

vsnII[co]
srg 29/03/2019



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