IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16-09-2019

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.NO.12690 OF 2004
And
W.P.M.P.No.443 of 2010

Karur District Cooperative Spinning Mills Limited,
Represented by Administrator S.Raju,
Malaikovilur, Moolapatti,
Karur District. ...Petitioner

vs.

1.The Deputy Chief Inspector of Factories,
Office of Chief Inspector of Factories,
Thiruchirappalli.

2.M.Eswaran .. Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order in Ref.E.9533 of 2002 dated 30.05.2003 on the file of the first respondent and forbear the first respondent from initiating any further action under Section 5 of the Tamil Nadu Conferment of Permanent Status Act.

For Petitioner : Mr.K.Boopalan

For Respondent-1: Mr.J.Ramesh,
Additional Government Pleader.

For Respondent-2: Mr.A.Tamilvanan

O R D E R

The order dated 30.05.2003 passed by the Deputy Chief Inspector of Factories under the provisions of the Conferment of Permanent Status Act, is under challenge in the present writ petition.

2. The writ petitioner is Karur District Cooperative Spinning Mills Limited and the second respondent was the workman. The writ petitioner states that the second respondent-

workman had obtained an order dated 31.12.2003 passed by this Court in WP No.39303 of 2003 against the Spinning Mills Limited, this Court directed the Management to consider the claim of the second respondent-workman based on the recommendations of the Deputy Chief Inspector of Factories. However, the writ petitioner came to understand that the closure of the Spinning Mills Limited was not brought to the notice of this Honourable Court by the second respondent-workman.

3. In view of the fact that the facts were suppressed regarding the closure of the Spinning Mill in the earlier writ petition filed by the second respondent-workman in WP No.39303 of 2003, the writ petitioner was constrained to move the present writ petition, challenging the order of the first respondent dated 30.05.2003.

4. Nearly about 18 Cooperative Spinning Mills in the State inclusive of the writ petitioner was there. For want of raw materials, the Textile Industries have been facing severe recessionary trends. The writ petitioner-Unit was working on loss while was beyond the control of the writ petitioner-Management. The Government of Tamil Nadu declared the petitioner Spinning Mill was one among the 18 Cooperative Spinning Mills as 'Relief Undertakings' under the provisions of Tamil Nadu Relief Undertaking (Special Provisions) Act 21 of 1969 for a period of one year with effect from 18.07.2001 by virtue of notification in G.O.Ms.No.85, Handlooms, Handicrafts, Textiles and Khadhi (C1) Department dated 17.07.2001 issued and published. Subsequently, the Spinning Mill itself was closed and a Liquidator was appointed.

5. The learned counsel for the writ petitioner states that the Liquidator has taken charge and the Spinning Mill was completely closed down with effect from 17.12.2012. Accordingly, the writ petitioner-Spinning Mill was permanently closed. The learned counsel for the writ petitioner further states that the service benefits were also settled in favour of the second respondent-workman to the tune of Rs.3,40,651/. The second respondent-workman also acknowledged the receipt of service benefits and issued a receipt on 21.01.2009.

6. In view of the fact that the writ petitioner-Spinning Mill was permanently closed and the service benefits were also settled in favour of the second respondent-workman, now the order dated 30.05.2003 passed by the first respondent under the provisions of the Conferment of Permanent Status Act, cannot be implemented. When it is an admitted fact that the writ petitioner-Spinning Mill was permanently closed, the question of granting permanent status to the second respondent-workman would not arise at all.

7. The learned counsel for the second respondent-workman also made a submission that the second respondent was treated as a permanent employee of the writ petitioner-Spinning Mills and the amount of Rs.3,40,651/- was settled.

8. This being the factum, the order passed by the first respondent on 30.05.2003 granting permanent status would not arise at all. In view of the fact that the benefits were also settled in favour of the writ petitioner, no further consideration is required in respect of the claim set out by the second respondent-workman before the first respondent. Consequently, the order dated 30.05.2003 passed by the first respondent in Ref.E.9533 of 2002 is quased and the writ petition stands allowed. However, it is left open to the second respondent-workman to approach the Liquidator for redressal of his remedy if any exists. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Svn

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To
The Deputy Chief Inspector of Factories,
Office of Chief Inspector of Factories,
Thiruchirappalli.

+1cc to Mr.A.Tamilvanan, Advocate, SR.No.79739
+1cc to Mr.J.R.K.Bhavananantham, Advocate, SR.No.79395
+1cc to the Govt.Pleader, Vide Sr.No.80205

W.P.No.12690 of 2004

Kak(16/10/2019)