

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2019

CORAM

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

W.P.No.27022 of 2004
and
W.P.M.P.No.32910 of 2004

Management of Nadumalai Estate (North)
Unit of Periakaramalai Tea Produce Co.Ltd.,
Valparai Post - 642127. ...Petitioner

Vs.

1. The Commissioner of Labour,
Teynampet, Chennai - 6.
2. The Chief Inspector of Plantations,
C/o Commissioner of Labour,
Teynampet, Chennai - 18.
3. Tmt. Lakshmi
C/o Anaimalai, National Estate Workers' Union,
I.N.T.U.C.
Valparai - 642127. ...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records of the first respondent in Proceedings No.P1/32581/2004 and quash its order dated 08.07.2004.

For Petitioner :Mr.S.Haroon AL Rasheed
For M/s. T.S.Gopalan & Co.

For Respondents:Mr.D.Suriyanarayanan
Additional Government Pleader[R1&R2]
Mr.R.D.Ashok Kumar
For Mr.S.N.Ravichandran [R3]

O R D E R

The order dated 08.07.2004 passed by the Commissioner of Labour under Rule 81(1) of the Tamil Nadu Plantation Labour Rules, 1955 is under challenge in the present writ petition.

2. The writ petitioner states that the petitioner's Estate belongs to The Peria Karamalai Tea & Produce Company Limited. The Tea Plantation Estates are governed by the

Plantation Labour Act, 1951 and Tamil Nadu Plantation Labour Rules, 1955. The claim of the writ petitioner was in relation to the medical treatment taken in a private hospital, which was not approved by the writ petitioner/Management.

3. The learned counsel appearing on behalf of the writ petitioner states that the medical facility are provided by the writ petitioner/Management and accordingly, the case of the third respondent was referred to take treatment in the Government Hospital at Coimbatore. However, the third respondent has taken treatment in a private hospital and therefore, the Management refused to settle the medical claim of the third respondent.

4. The learned counsel appearing on behalf of the third respondent states that on account of certain emergent circumstances, the third respondent had taken treatment and in such circumstances, the workman cannot be expected to approach the Government Hospital at Coimbatore, as per the instructions of the writ petitioner/Tea Plantation.

5. This Court is of the considered opinion that providing a decent medical facility is an integral part of the Article 21 of the Constitution of India. The State has to provide decent medical facility to all the citizen. The writ petitioner/Management agreed to provide such medical facility to all the workers and the treatments are also being extended. However, the dispute arose on account of the fact that the third respondent had taken treatment in a private hospital, in violation of the directions issued by the writ petitioner/Management to take the treatment in Government Hospital at Coimbatore.

6. The learned counsel appearing on behalf of the writ petitioner states that the second respondent has no jurisdiction to entertain the writ petition and on that ground also, the writ petition is liable to be allowed.

7. This Court is of the considered opinion that the benefit of the medical treatment, as extended by the writ petitioner/Management cannot be denied to the third respondent. Simply because the third respondent had taken treatment in a private hospital, medical reimbursement cannot be denied on such technical grounds. The management is empowered to verify the genuinity of the treatment taken and certainly not the hospital, in which the treatment was taken by the workman. The genuinity of the treatment has not been disputed by the writ petitioner/Management. This being the factum, they are liable to pay the medical reimbursement charges due to the third respondent as per their agreement of medical facility to workmen.

8. This being the principles to be followed, this Court is of the opinion that the award amount itself was about Rs.11079/- and that the writ petition was filed in the year 2004, under these circumstances, adding simple interest to the Principal amount, this Court is inclined to grant a total sum of Rs.25,000/- to the third respondent. Accordingly, the writ petitioner/Management is directed to pay Rs.25,000/- towards the medical reimbursement claim to the third respondent/workman within a period of four weeks from the date of receipt of a copy of this order.

9. With these directions, the order passed by the first respondent/Commissioner of Labour in Proceedings No.P1/ 32581/ 2004 dated 08.07.2004 is confirmed and the award amount is modified as Rs.25,000/- which is to be paid to the third respondent/workman within a period of four weeks from the date of receipt of a copy of this order. The issues raised regarding the jurisdiction of the second respondent to entertain the petition under the provisions of the Tamil Nadu Plantations Labour Rules, is left open. Accordingly, the writ petition stands disposed of. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner of Labour,
Teynampet, Chennai - 6.
2. The Chief Inspector of Plantations,
C/o Commissioner of Labour,
Teynampet, Chennai - 18.

+lcc to Mr.S.N.Ravichandran, Advocate SR.82338
+lcc to M/s. T.S.Gopalan & Co., Advocate SR.82547
+lcc to the Government Pleader SR.83214

W.P.No.27022 of 2004

VBA(CO)
CB(18/11/2019)