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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.27537 to 27539 of 2009

Management of Tamil Nadu Salt Corporation Ltd,
L.L.A.Building,
735, Anna Salai, 4th Floor,
Chennai-600 002.

...Petitioner in all W.Ps

vs.

1. D.Ramesh ...R1 in W.P.No.27537 of 2009
- 2.R.Usha ...R1 in W.P.No.27538 of 2009
3. D.Salja ...R1 in W.P.No.27539 of 2009
4. The Presiding Officer,
III Additional Labour Court,
Chennai. ... R2 in all W.Ps

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records relating to the impugned order passed by the 2nd respondent in C.P.No.745 to 747 of 2002 dated 09.07.2009 and to quash the same.

For Petitioner : Mr.Abdul Nahab
for M/s.K.V.Subramaniam and
Associates.

For Respondents : Non-appearance for R1.
R2-Labour Court

C O M M O N O R D E R

The common order dated 09.07.2009 passed by the second respondent in C.P.No.745 to 747 of 2002 is under challenge in the present writ petitions.

2. The Management of Tamil Nadu Salt Corporation Limited challenging the order passed in the claim petition, granting the benefits in favour of the workman, has filed the present writ petitions.



3. The writ petitioner/Management made a submission that the petitioner was employed as a NMR Workman in their Alathur Iron Fortified salt Unit at Alathur. The grounds raised by the writ petitioner is that the Labour Court has erred in allowing difference in minimum wages as per the Notification of Tamil Nadu Government applicable to Salt pan Industry, 3 months wages as closure compensation calculated at the rate of minimum wages notification of the Tamil Nadu Government as applicable to salt pan Industry, and Earned Leave Salary calculated at the rate of minimum wages Notification as per Tamil Nadu Government applicable to Salt pan Industry, at the rate of 15 days per year for the period of service.

4. It is contended that the second respondent has erred in applying the Notifications dated 28.03.1996 and 01.04.2000 which applies to Salt pan Industries and not to the petitioner Establishment which is a Salt Industry manufacturing Iron Fortified Salt by procuring Raw Salt from outside and mixing up with chemicals. Challenging on the above grounds, the present writ petition is filed.

5. A perusal of the common order passed by the Labour Court reveals that the Labour Court decided the issue based on the order passed by this Court in W.P.No.35874 of 2005. In paragraph No.16 of the Award of the Labour Court, it is revealed that the workmen were able to work out their pre-existing right for claiming differential amount and further, this Court also passed an order in a batch of petitions in W.P.No.35874 of 2005 etc. dismissing the writ petitions filed by the respondent Corporation by confirming the order of Principal Labour Court. The said paragraph No.16 is extracted hereunder:

16. These three petitions are filed under Section 33C(2) of the I.D.Act, to claim the amounts which are due to the petitioners from the respondent corporation. There is no dispute about the employment by the petitioners under the respondent state owned corporation in the relevant period mentioned in the petitions but the petitioners grievance is that they have to be paid amounts as mentioned in the petitions which are legally entitled for them. To claim any amount under Section 33C (2) of the I.D.Act, there must be pre-existing right. There is no dispute that the above employer and employee relationship here. The question in this case is whether the petition mentioned amounts are liable to be paid by the respondent or not. The learned counsel for the petitioner submitted that the co-workers of the petitioners filed similar petition under C.P.Nos.279/00 to 408/00, which were enquired into by the Principal Judge Labour Court, Chennai and the respondent was



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directed to pay the claim amount by the order dated 03.08.2008 and hence these petitioners are also entitled for the claim as mentioned in their petitions. The above order of the Labour Court was challenged by the respondent in High Court of Madras, His Lordship Justice K.Chandru in a batch of petitions in W.P.No.35874 of 2005 etc. by dismissing the petition of respondent Corporation by confirming the order of Principal Labour Court, by directing the respondent Corporation to pay the amount for which the petitioners are entitled. The relevant portion of the said order was quoted by the learned counsel for the petitioners are as follows:

"The order of the Labour Court does not call for interference and the Labour Court has kept in mind the parameters of deciding a petition filed under Section 33C(2) of the I.D.Act. The closure compensation is a statutory right available to the workmen under chapter V A of the I.D.Act and such compensation can be granted even in a petition filed under Section 33C(1) of the I.D.Act. It is much more so under Section 33C(2) of the I.D.Act, where any amount due from an employer can be computed. Likewise, the earned leave wages is part of right conferred under the Factories Act, 1948. At the maximum it can be said ordering of three months' notice pay as per Chapter V B of the I.D.Act may not be proper. Under Section 25FFF of the I.D.Act only one month notice is contemplated. "

6. In view of the fact that the rights of the workmen for claiming differential amount had already been settled, based on the orders of this Court, the present writ petitions are also filed on similar grounds. Therefore, there is no reason to entertain the writ petitions. Accordingly, the common order passed by the second respondent in C.P.Nos.745 to 747 of 2002 dated 09.07.2009 are confirmed and consequently, the writ petitions stand dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CCC)

//True Copy//
Sub Assistant Registrar

ssb

To
The Presiding Officer,
III Additional Labour Court,
Chennai.



+1cc to Mr.K.V.Subramanian, Advocate SR.95160

W.P.Nos.27537 to 27539 of 2009

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VGII (CO)
CB (30/12/2019)