

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2019

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THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.20945 of 2012

E.Panneerselvam
S/o.K.Elumalai

...Petitioner

vs.

- 1.The Secretary to Government
Industries (MIF2) Department
Fort St.George
Chennai-600 009.
- 2.The Official Liquidator
As the Liquidating Officer
in the matter of Tamil Nadu Steels Ltd.,
Chennai-600 001.
- 3.The Deputy Chief Inspector of Factories
Division-I
Vellore.

....Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the third respondent in connection with the order passed by him in Na.Ka.No.E/636/2012 dated 26.04.2012 and quash the same and direct the third respondent to confer the permanent status to the petitioner and consequently, direct the first respondent to pay all the benefits as provided in G.O.Ms.No.222 dated 16.06.1998 and G.O.Ms.No.524 dated 21.08.1998 to the petitioner.

For Petitioner : Mr.J.Shanmugasundara Babu

For Respondents : Mr.D.Suriyanarayanan
Additional Government Pleader
For R1 & R3

O R D E R

This writ petition is filed challenging the order of the third respondent dated 26.04.2012, wherein and whereby, the application made by the petitioner seeking permanent status was rejected on the reason that the petitioner has not filed any proof to show that he worked continuously for 480 days in a given 24 calendar months. Consequently, the petitioner seeks for a direction to confer him permanent status and to

pay all the monetary benefits, as provided in G.O.Ms.No.222 dated 16.06.1998 and G.O.Ms.No.524 dated 21.08.1998.

2. The case of the petitioner, in short, is as follows:

He was an employee of M/s.Tamil Nadu Steel Ltd., Arakkonam, a company owned by the Government of India. He has completed apprenticeship in the Electrical Section, Steel Melting Shop on 06.07.1995. He was paid wages at the rate of Rs.67/- per day. He was working continuously in the production side of the electrical maintenance without any break. Suddenly, on 05.07.1997, the said company suspended the production in Steel Melting Shop due to financial position and the workmen including the petitioner were denied employment and stated that the employment would be given after the financial position gets improved. The petitioner was employed continuously for more than 480 days from 06.07.1995. The application filed by the said company before the concerned authority to retrench all the workmen and lay-off were rejected. Since lay-off application filed by the Management was rejected, all the workmen should be paid salary as per Section 25M(7) of the Industrial Disputes Act. However, the workmen were given illegal lay-off and subsequently, the Government of Tamil Nadu issued G.O.Ms.No.222 dated 16.06.1998 ordering closure of the company. In the said Government Order, the Government of Tamil Nadu introduced a voluntarily retirement scheme providing Rs.2 Lakhs as closure compensation and Rs.50,000/- for future compensation to all the workmen, who opt for VRS scheme. The said benefit was given only to the permanent workmen on the rolls. The Union, in which the petitioner was a member, made a representation on 02.09.1998 to the said company for extending the benefit mentioned in the said Government order, also by treating the petitioner as a permanent employee as per Section 3 of the Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workmen) Act, 1981. As the Management did not consider the request, a representation was made to the third respondent on 29.07.1997. The third respondent, by letter dated 27.02.2012 directed the petitioner to provide the E.S.I. Certificate and Attendance Register. The petitioner enclosed the E.S.I. Certificate and however, intimated that the Attendance Register is available with the second respondent. The third respondent, without perusing the documents filed by the petitioner, has erroneously rejected the application through the impugned order dated 26.04.2012. Similar workmen like the petitioner, who have worked more than 480 days have been granted the relief of permanent status by order of the third respondent dated 02.02.2011. Therefore, the petitioner alone cannot be singled out.

3. The learned counsel for the petitioner submitted that the third respondent has erroneously rejected the application on the presumption that the petitioner did not produce the certificate dated 05.07.1997 issued by the Manager (Maintenance) Electrical, certifying that the petitioner had

worked as a casual labour from 06.07.1995 to 05.07.1997 in the Electrical Section of the Steel Melting Shop. Therefore, he contended that had the third respondent considered the said certificate, he would have not chosen to reject the application.

4. On the other hand, the learned Additional Government Pleader appearing for the respondents submitted that since the petitioner failed to produce any material documents in support of his claim, the third respondent rejected the application. Therefore, he contended that the impugned order is just and proper.

5. Heard both sides and perused the materials placed before this Court.

6. The petitioner claims the permanent status. For granting such relief, the petitioner approached the third respondent and filed an application. The third respondent rejected the application only on the reason that the petitioner did not produce any proof to show that he worked 480 days in a given 24 calendar months. However, it is disputed by the petitioner that the said finding is factually erroneous in view of the certificate dated 05.07.1997 produced by him. A copy of the said certificate is also filed in the typed set of papers. Since the third respondent has chosen to reject the application only on the reason that the petitioner did not produce any document and as it is contended that the said document is produced before the third respondent, this Court is of the view that the interest of justice would be met, if the matter is remitted back to the third respondent to reconsider the application of the petitioner seeking permanent status once again on merits, also after considering the certificate dated 05.07.1997, said to have been issued by the Manager (Maintenance) Electrical, Tamil Nadu Steels Limited, Arakkonam. It is open to the petitioner to produce any other supporting materials before the third respondent.

7. Accordingly, this Writ Petition is allowed and the impugned order is set aside. Consequently, the matter is remitted back to the third respondent to reconsider the application filed by the petitioner and pass appropriate orders on merits and in accordance with law. The petitioner is directed to file the supporting documents before the third respondent within a period of two weeks from the date of receipt of a copy of this order. On receipt of those documents, the third respondent shall pass appropriate orders as stated supra, within a period of four weeks thereafter. No costs.

Sd/-

Assistant Registrar(JJ Act)

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To

- 1.The Secretary to Government
Industries (MIF2) Department
Fort St.George
Chennai-600 009.
- 2.The Official Liquidator
As the Liquidating Officer
in the matter of Tamil Nadu Steels Ltd.,
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- 3.The Deputy Chief Inspector of Factories
Division-I
Vellore.

+1cc to Mr.J.Shanmugasundara Babu, Advocate SR.No.103555

W.P.No.20945 of 2012

KK(CO)
GMY(28/01/2020)



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