

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.38801 of 2005
and WPMP.No.33477 of 2018

1. K.Arumugam
S/o.Krishnappa

2. S.Arumugam
S/o.Subramani

... Petitioners

Vs.

1.The Certifying Officer-I,
The Joint Commissioner of Labour,
Sanding Orders Authority,
D.M.S.Complex, Teynampet,
Chennai 600 006.

2.M/s.Additions Paints and Chemicals Ltd.,
Rep. by its Chief Executive Officer,
Sembiam, Chennai 600 011.

3.Addisons Paints & Chemicals Ltd.,
A division of Simpson & Co. Ltd.,
Rep. by its Whole Time Director,
Sembium, Chennai 600 011.

...Respondents

[R3 is impleaded as per the order of this Court,
dated 28.03.2019 in WMP.No.35161 of 2018
in WP.NO.38801 of 2005]

Prayer:

Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order No.B2/24568/76; Dated 31.01.1981, certified by the first respondent and quash the same as null and void and consequently directing the second respondent to reinstate the petitioners in service with back wages.

For Petitioners : Mr.S.T.Varadarajulu

For Respondents : Mr.S.Suresh Kumar, G.A., for R1
Mr.Chevanan Mohan
for M/s. King & Patridge, for R2

O R D E R

This petition has been filed to quash the order of the first respondent in No.B2/24568/76, dated 31.01.1981 and consequently direct the second respondent to reinstate the petitioners in service with back wages.

2. The grievance of the petitioners is that they are under non employment, in view of certain clauses in the Standing Orders, whereby the petitioners along with 27 other workers, were suspended from their service and subsequently dismissed from service.

3. The learned counsel for the petitioner, though had raised several grounds in the Writ Petition, has now restricted the argument to the effect that during the pendency of the Writ Petition, the Management had extended compensation by way of VRS Scheme to other workers, who were dismissed from the service and the similar compensation can also be extended to the Writ Petitioners also.

4. The learned counsel for the second respondent, on the other hand, submitted that the Writ Petition itself is not maintainable, since the petitioners herein are workmen as defined under the Industrial Disputes Act, and the remedy available to them is to raise a dispute as contemplated under the Industrial Disputes Act and the Writ Petition may not be maintainable.

5. Though the petitioners have challenged the provisions of certain Standing Orders, effectively the challenge is to the non-employment. Nevertheless, when the Writ Petition was taken up for final disposal, this Court had suggested to the Management to extend the benefits under the VRS Scheme to the petitioners herein also, as extended to the other similarly placed workers.

6. On instructions, the learned counsel for the second respondent submitted that they are willing to extend the VRS scheme to these petitioners also, subject to any dues they may have to pay to the Society.

7. According to the learned counsel for the petitioners, while the first petitioner, viz., K.Arumugam S/o. Krishnappa is

entitled for a sum of Rs.2,40,692.13/- towards the VRS compensation, notice pay and gratuity, the second petitioner, viz., S.Arumugam S/o. Subramani is entitled for compensation package of Rs.2,36,784.93/- towards the VRS compensation, notice pay and gratuity.

8. The learned counsel for the second respondent also ratified the amounts sought for by the learned counsel for the petitioners towards the petitioners' VRS package as correct.

9. Though the first petitioner doesn't have any outstanding loan to the Society, the second petitioner, viz., S.Arumugam S/o. Subramani has certain outstanding loan to the Society, which is over and above the VRS compensation which he is entitled to. It is now brought to the notice of this Court that the outstanding loan was due from 2004 onwards and the Society had not taken any steps for recovery of the money till date and as such, it is doubtful as to whether the Society is entitled to make such a claim towards the second petitioner.

10. In view of the above submissions, this Court is of the view that the first petitioner may be paid the necessary amount directly, which he is eligible and insofar as the second petitioner is concerned, it would be appropriate that such amount be kept in deposit for some time and thereafter, the second petitioner may be permitted to make out an application seeking for payment out.

11. In view of the peculiar circumstances under which this order has been passed, wherein the Writ Petition itself would not be maintainable, the present order shall not be quoted as a precedent by any other employees.

12. In the light of the above observations, the second respondent is called upon to pay a sum of Rs.2,40,692.13/- in favour of the first petitioner K.Arumugam S/o. Krishnappa within a period of two weeks from the date of receipt of a copy of this order. Insofar as the second petitioner, viz., S.Arumugam S/o. Subramani is concerned, the second respondent shall deposit a sum of Rs.2,36,785/- by way of a Demand Draft to be taken in favour of the Registrar General, High Court of Madras, within a period of two weeks from the date of receipt of a copy of this order. Such amount shall remain in deposit for a period of three months and thereafter, it is open to the second petitioner, viz., S.Arumugam S/o. Subramani to make out an appropriate application seeking for the payment out.

13. With the above observations and directions, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

pvs

To

The Certifying Officer-I,
The Joint Commissioner of Labour,
Sanding Orders Authority,
D.M.S.Complex, Teynampet,
Chennai 600 006.

+1cc to Mr.S.T.Varadarajulu, Advocate, S.R.No.30091
+1cc to M/s.King & Patridge, Advocate, S.R.No.29888
+1cc to the Government Pleader, S.R.No.30470

W.P.No.38801 of 2005

KAN(CO)
CS/27/06/2019