

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16-10-2019

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.NO.9740 OF 2005

Swadeshi Panchalai Thozhilalar
Urimai Padukappu Sangam,
Reg.R.T.U.1013/96
Represented by its President
K.Mohandass,
No.128, Laport Street,
Pondicherry-605 001.

..Petitioner

.Vs.

1.Union of India represented by its
Secretary,
Ministry of Textiles,
Udhyog Bhavan,
New Delhi.

2.National Textile Corporation Ltd.,
Represented by its Chairman and
Managing Director,
Core-4, Scope Complex,
T.Lodi Road,
New Delhi-3.

3.National Textile Corporation (TN&P) Ltd.,
represented by its Chairman-cum-
Managing Director,
35-B, Somasundaram Mill Road,
Coimbatore-641 009.

4.Swadeshi Cotton Mills (NTC),
Represented by its General Manager,
Pondicherry.

.. Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Declaration, declaring that clause 3.1.6 of the Modified Voluntary Retirement Scheme (MVRS) dated 23.01.2002 introduced with effect from 01.02.2002 extended to the fourth respondent-Mill with effect from 02.05.2002 in so far as it reckons a month as 30 days for the purpose of calculation of ex-gratia as

illegal, arbitrary, contrary to Section 9A of the Industrial Disputes Act, 1947 violative of Articles 14 and 21 of the Constitution of India and consequently direct the respondents to settle the ex-gratia amount payable to the members of the petitioner-Union, who are working in the fourth respondent-Mill, who are opting for Voluntary Retirement under the Modified Voluntary Retirement Scheme (MVRS) for the employees numbering 27 list in the Annexure, who were sent on voluntary retirement already by reckoning a month as 26 days wages as given in the earlier VRS Scheme dated 31.03.2001 issued to the employees of Kaleeswarar Mills A Unit - Unit of third respondent.

For Petitioner : Mr.M.A.Abdul Wahab

For Respondent-1 : Mr.P.Ayyaswamy,
Central Government Counsel.

For Respondent-2 : Mr.C.V.Vijayakumar

For Respondents-3&4: No Appearance

O R D E R

The relief sought for in the present writ petition is to declare that clause 3.1.6 of the Modified Voluntary Retirement Scheme (MVRS) dated 23.01.2002 introduced with effect from 01.02.2002 extended to the fourth respondent-Mill with effect from 02.05.2002 in so far as it reckons a month as 30 days for the purpose of calculation of ex-gratia as illegal, arbitrary, contrary to Section 9A of the Industrial Disputes Act, 1947 violative of Articles 14 and 21 of the Constitution of India and consequently direct the respondents to settle the ex-gratia amount payable to the members of the petitioner-Union, who are working in the fourth respondent-Mill, who are opting for Voluntary Retirement under the Modified Voluntary Retirement Scheme (MVRS) for the employees numbering 27 list in the Annexure, who were sent on voluntary retirement already by reckoning a month as 26 days wages as given in the earlier VRS Scheme dated 31.03.2001 issued to the employees of Kaleeswarar Mills A Unit - Unit of third respondent.

2. The learned Central Government Counsel appearing on behalf of the first respondents and the learned counsel appearing on behalf of the second respondent have made a submission that the issues involved in the present writ petition had already been decided by this Court in WP Nos.16539, 18153, 18184 and 33580 of 2002 and WP No.24020 of 2003 dated 28.11.2018. The said fact is not disputed by the learned counsel for the writ petitioner.

3. The order passed by this Court on 28.11.2018 in WP Nos.16539, 18153, 18184 and 33580 of 2002 and WP No.24020 of 2003, the relevant paragraphs 8 and 9 are extracted hereunder:-

"8. The last submission made by the Learned Counsel for the Petitioners is that in respect of other mills such as, Kaleeswarar Mills in which Voluntary Retirement Schemes were earlier introduced by the National Textile Corporation, the number of days in a month had been reckoned as 26 days for computing ex-gratia payment and the failure to extend the same benefit in the case of the employees of the Balaramavarma Textile Mills, Sengottai, and Somasundaram Textile Mills, Coimbatore, is discriminatory. It is needless here to recapitulate the settled law that it is prerogative of the employer to frame the basis for calculating the ex-gratia payment amount taking into consideration the financial capacity of concerned mill and there cannot be any uniformity in prescribing the same criteria for all such mills.

9. Therefore, as there are no merits in these Writ Petitions, the same are dismissed. Consequently, the connected Miscellaneous Petitions are closed. No costs."

4. In view of the orders cited above, no further consideration is required in respect of the grounds raised in the present writ petition. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs.

Svn

Sd/-
Assistant Registrar

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Sub Assistant Registrar

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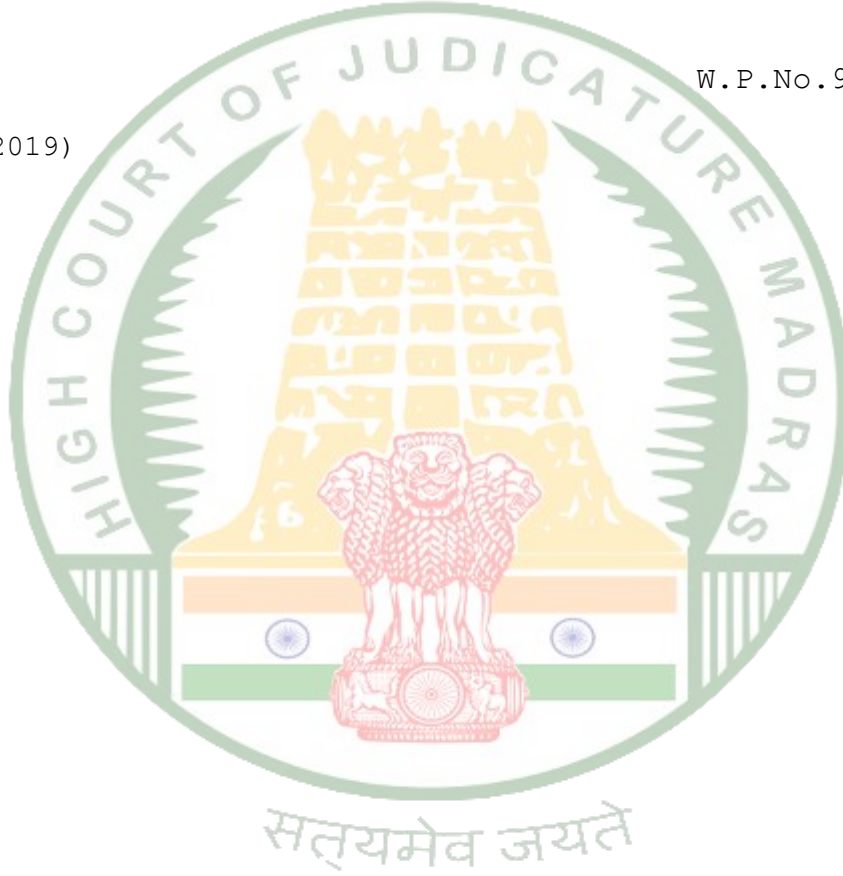
1.The Secretary,
Union of India represented by its
Ministry of Textiles,
Udhyog Bhavan,
New Delhi.

2.The Chairman and Managing Director,
National Textile Corporation Ltd.,
Core-4, Scope Complex,
T.Lodi Road,
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3.The Chairman-cum-Managing Director,
National Textile Corporation (TN&P) Ltd.,
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