

IN THE HIGH COURT OF JUDICATURE AT MADRAS

22.03.2019

Coram

The Hon'ble Mr.Justice V.PARTHIBAN

W.P.Nos.4137 and 4138 of 2011
and

M.P.Nos.1 & 1 of 2011

The Management of
Global Pharmatech Pvt.Ltd.,
rep.by its Deputy General Manager
Personnel & Administration ... Petitioner in
in both W.Ps.

vs.

1.The Deputy Chief Inspector of Factories,
Authority under Tamil Nadu Industrial
Establishments (Conferment of
Permanent Status to Workmen) Act, 1981

... 1st Respondent
in both W.Ps.

2.M.Senthil Kumar ... 2nd Respondent in
W.P.No.4137 of 2019

3.M.Achudhan ... 2nd respondent in
W.P.No.4138 of 2011

Petitions 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 order of the first respondent in Proceedings No.A1/1677/2010 and No.A1/1678/2010 respectively and quash its order dated 04.02.2011.

For Petitioner .. Mr.Anand Gopalan
for M/s.T.S.Gopalan and Co.,

For Respondents .. Mr.T.Fennwalter Associates for R2
in both W.Ps.
No appearance for R1

ORDER

When the matter is taken up for hearing, the learned counsel appearing for the writ petitioner Management would submit that as against the order of termination dated 27.04.2010, the second respondent/employee in both the writ petitions have raised Industrial Disputes and the same are pending before the Labour Court, Salem. In the meanwhile, the second respondent/employee, in both the writ petitions, have also approached the Deputy Chief Inspector of Factories, Hosur, seeking permanent status under the petitioner Management. The first Respondent/Deputy Chief Inspector of Factories has allowed the applications filed by the second respondent employees under the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981, vide order dated 04.02.2011, the operative portion of the order reads as under:

"The respondent Management's factory namely, Global Pharmatech Pvt.Ltd., situated in D.No.32, Sipcot Industrial Complex, Hosur, is an establishment as defined under Section 2(3) of the Act and the petitioner is a workman employed in the said establishment. The petitioner has completed more than Four Hundreds and Eighty days of continuous service during the period from 10.09.2008 i.e. Date of appointment to 12.04.2010 i.e. Date of making application seeking permanent status under Section 3 of the Act. The Respondent Management is directed to confer permanent status to the petitioner w.e.f. 12.04.2008. This order shall not affect the petitioner any rights or privileges which the petitioner is entitled to under any other law which shall include the Certified Standing Orders of the company."

2.The learned counsel for the writ petitioner Management would submit that he would have no issue in regard to the order passed by the first respondent authority and in any case, as against the order of termination, Industrial Disputes have been raised by the employees and the same are pending. Therefore, he would urge this Court that any observation made in the order passed by the first respondent shall not be taken into consideration by the Labour Court and any award to be passed by the Labour Court in the Industrial Disputes raised on behalf of the second respondent/workman in both the writ petitions, should be uninfluenced and untrammelled by the order passed by the first respondent.

3.Considering the submissions made on behalf of the learned counsels, this Court makes it very clear that the Labour Court, Salem, which is called upon to adjudicate the issue of non-employment of the second respondent/employee, in both the writ petitions, by the aforesaid Industrial Disputes, shall pass award without being influenced by the conclusion reached by the first respondent/the Deputy Inspector of Factories or any observations made in the order passed by the said authority.

With the above clarification, the writ petitions shall stand disposed of. No costs. Connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

msk

To

1.The Deputy Chief Inspector of Factories,
Authority under Tamil Nadu Industrial
Establishments (Conferment of
Permanent Status to Workmen) Act, 1981

+1 cc to M/s.T.S.Gopalan & Co, Advocate, Sr.No. 27303

+1 cc to M/s.T.Fennwalter Associates, Advocate, Sr.No. 28165

W.P.Nos.4137 and 4138 of 2011

KS(CO)

CSL/14.05.2019

सत्यमेव जयते

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