

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2019

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

WP.No.9055 of 2019

Mettur Chemicals and Plastics Worker's Union,
rep. by its General Secretary,
Near Thangamapuripattinam Roudana,
Mettur Dam RS,
Salem-636 402.

.. Petitioner

versus

1. The Government of Tamil Nadu,
rep. by its Secretary,
Department of Labour and Employment,
Fort St.George,
Chennai-600 009.

2. Assistant Commissioner of Labour,
Department of Labour,
Salem-636 008.

3. M/s.Chemplast Sanmar Limited,
rep. by its General Manager (Legal),
Plat II, Raman Nagar Post,
Mettur Dam-636 403, Salem District. ... Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, to direct the 2nd respondent to dispose of the unfair labour practice pending on his file as Na Ka No.39/2019 within a period prescribed by this Court.

For Petitioner : Mr.N.G.R.Prasad
for M/s.Row & Reddy

For Respondents : Mr.J.Pothiraj, Spl.GP for R1&2
M/s.Sai Raaj Associates for R3

ORDER

This Writ Petition has been filed, seeking for the issuance of a Writ of Mandamus, to direct the 2nd respondent to dispose of

the unfair labour practice practice pending on his file as Na. Ka. No.39/2019 within a period prescribed by this Court.

2. The petitioner is a Union, whose members are employed in the 3rd respondent company. The 3rd respondent is engaged in manufacturing of PVC rexine and has its factory in Mettur. The petitioner Union is a registered Union under the Trade Unions Act, 1926. According to the petitioner, the 3rd respondent factory has been in existence for the past 50 years and nearly 35 workers out of 80 permanent workers, 109 intern workers and more than 200 contract workers have been employed against permanent post and the Writ Petition is filed on behalf of the workers.

3. According to the petitioner Union, interns were paid very low wages than the regular workers though they also discharge their duties as that of regular workers. The interns are also directly engaged in production and unfortunately, they have been denied wages on par with regular workers.

4. The 3rd respondent, on 27.03.2018, dismissed 22 workers without assigning any reasons and after a dispute was raised, they were reinstated in service. According to the petitioner Union, some workers were terminated only for the reason that they joined the petitioner Union. The Management has taken indiscriminate action against the workmen which amounted to unfair labour practice attracting Section 25T of the Industrial Disputes Act, 1947. According to the petitioner, a complaint was given to the 2nd respondent against the 3rd respondent, to take action against the Management for unfair labour practice as per Section 2(r)(a) read with Schedule V of the Industrial Disputes Act, 1947 as according to the petitioner Union, the 3rd respondent is prohibited from indulging in unfair labour practice under Sections 25T and 25U of the Industrial Disputes Act, 1947. After the complaint was filed, several rounds of discussion/conciliation took place on various dates, viz., 31.03.2018, 7.5.2018, 28.11.2018 and 07.02.2019, but the proceedings pending before the 2nd respondent did not reach finality as every time, the matter is being adjourned for one reason or the other detrimental to the interest of the workers. Therefore, the petitioner Union is before this Court, seeking for the issuance of a Writ of Mandamus.

5. On behalf of the 3rd respondent Management, a counter affidavit has been filed, denying the allegations made by the petitioner Union. As per the counter affidavit, the Management has been entering into various settlements for several decades with the employees Union and there was no accusation that the 3rd respondent was indulging in any unfair labour practice at all. According to them, there was no undue delay in the proceedings

before the 2nd respondent and in any event, it is not at the instance of the Management.

6. Heard Mr.N.G.R.Prasad, learned counsel appearing for the petitioner Union and Mr.J.Pothiraj, learned Special Government Pleader for respondents 1 and 2 and the learned counsel appearing for the 3rd respondent Management.

7. Though allegations and counter allegations have been made by the petitioner Union and 3rd respondent Management as against each other, this Court does not wish to enter into any of such controversies as the prayer sought for in the Writ Petition is rather too narrow and there is no requirement for this Court to resolve the lis between the parties in the Writ Petition as it framed.

8. The apprehension of the petitioner Union is that the 2nd respondent is delaying the conclusion of the proceedings pending before him, the Union wants this Court to issue a Writ to ensure early completion of the proceedings. Therefore, this Court is of the considered view that no prejudice would be caused to any of the parties if a direction is issued to the 2nd respondent for early completion of the proceedings, after all, any delay before the Labour Officer or the Industrial Adjudicator, adverse consequence of such delay would only befall the weaker section, namely, the workmen. Therefore, in all fairness, a Writ of this nature as prayed for before this Court, has to be considered and granted.

9. For the above said reasons, without expressing any opinion on the averments and counter averments, the Writ Petition is disposed of with the following direction.

The 2nd respondent, before whom, the proceedings are pending at the instance of the petitioner Union, shall hold discussion with the petitioner Union and the 3rd respondent Management and conclude the proceedings within a period of four weeks from the date of receipt of a copy of this order. On conclusion of the proceedings, the 2nd respondent is directed to file a report before the Government for further action in the matter. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary,
The Government of Tamil Nadu,
Department of Labour and Employment,
Fort St.George,
Chennai-600 009.

2. Assistant Commissioner of Labour,
Department of Labour,
Salem-636 008.

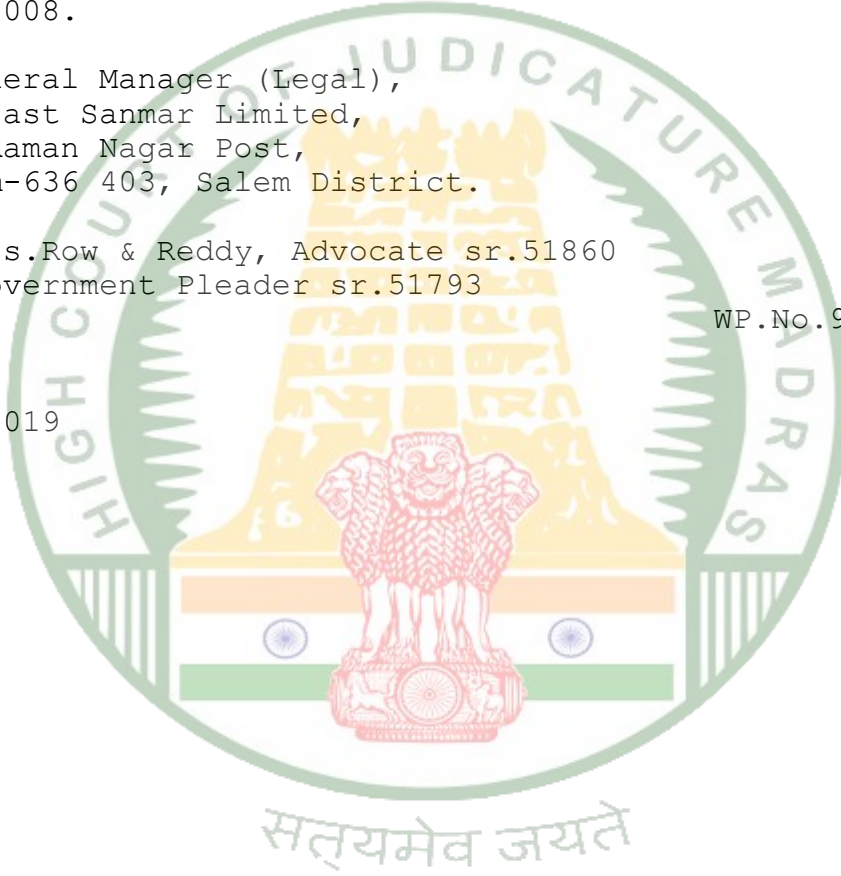
3. The General Manager (Legal),
M/s.Chemplast Sanmar Limited,
Plat II, Raman Nagar Post,
Mettur Dam-636 403, Salem District.

+lcc to M/s.Row & Reddy, Advocate sr.51860

+lcc to Government Pleader sr.51793

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nr 11/10/2019



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