

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2019

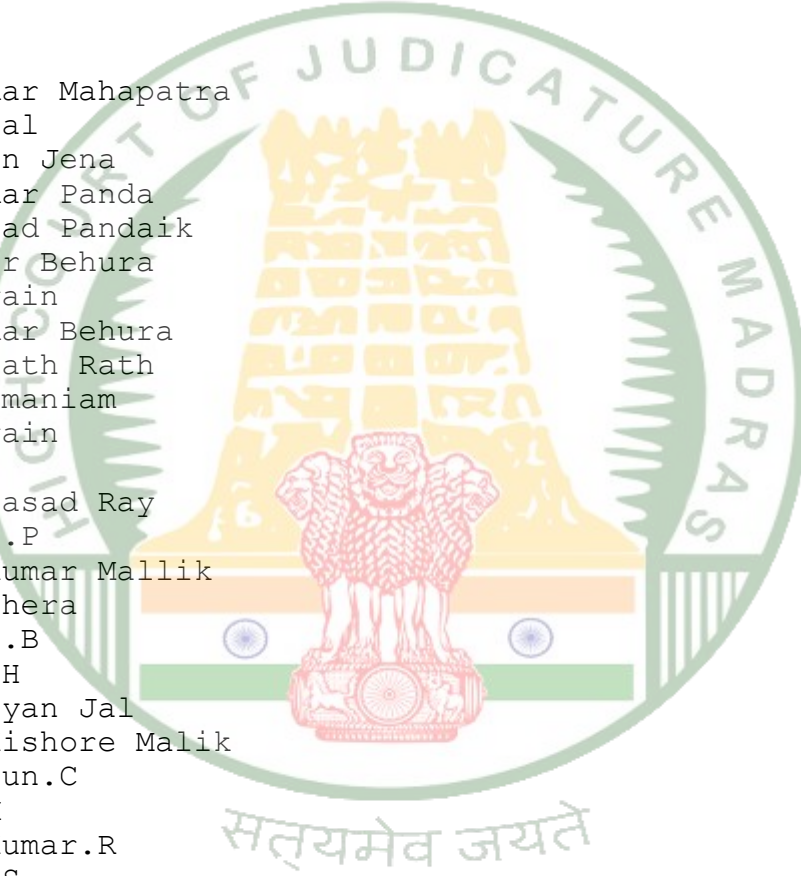
CORAM

THE HONOURABLE Mr.JUSTICE V.PARTHIBAN

W.P.Nos.15094 & 18141 of 2018
and

W.M.P.Nos.17852 & 21432 of 2018

- 1.Mathesan.P
- 2.Selvan.M
- 3.Suresh Kumar Mahapatra
- 4.Biswajit Pal
- 5.Alok Ranjan Jena
- 6.Aditya Kumar Panda
- 7.Durga Prasad Pandaik
- 8.Samir Kumar Behura
- 9.Rajaram Swain
- 10.Dilip Kumar Behura
- 11.Narendranath Rath
- 12.Balasubramaniam
- 13.Balram Swain
- 14.Shankar.L
- 15.Badrai Prasad Ray
- 16.Revappa.B.P
- 17.Hemanta Kumar Mallik
- 18.Babula Behera
- 19.Basavaraj.B
- 20.Gowtham. H
- 21.Satyanarayan Jal
- 22.Anantha Kishore Malik
- 23.Mallikarjun.C
- 24.Jayapal.M
- 25.Ranjith Kumar.R
- 26.Karthick.S
- 27.Naveen Kumar.S
- 28.Chandan Kumar Jena
- 29.Prabakaran.R
- 30.Venkatesh.S
- 31.Shakthivel.M
- 32.Prasanna Kumar Das
- 33.Ramesh Kumar.G
- 34.Pillapa.V
- 35.Dharmaraju.H.S
- 36.Anjan Kumar Dash
- 37.Pandian.P
- 38.Namadev Babaji Dabade



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39.Murali.K.M
40.Muthu.S
41.Karthika Behera
42.Aloak Palai
43.Meganathan.M
44.Manokaran
45.Raman.M
46.Shivkumar S.Shastrri
47.Prabhakaran.R
48.Prabhakaran.B
49.Venkatesh.B
50.Sabari.S
51.Ezhumalai Vasan.K
52.Ramaraj.C
53.Prakash.K
54.Prakash Kumar Biswal
55.Siva Prakasam.K
56.Sathish Kumar.R
57.Manmath Kumar Balaram
58.Tamilarasan.M
59.Elavarasan.S
60.Bhushan.S
61.Soundir Raj.J
62.Gyanandra Swain
63.Suganya.R
64.Govindaraj.R
65.Thivia Barathi.S
66.Kalaiarasi.M
67.Pugalenthi.C
68.Vinodh.G

... Petitioners in
W.P.No.15094 of 2018

The Management of Micro
Labs Limited,
92, SIPCOT Industrial Complex,
Phase-I, Hosur 635 126.

... Petitioner in
W.P.No.18141 of 2018

-Vs-

1.The Joint Director of Industries (Safety & Health),
Authority under the Tamil Nadu Industrial Establishment
(Conferment of Permanent status to worker) Act, 1981,
Hosur - 635 126.

2.The Management,
Micro Labs Limited,
No.92, SIPCOT Industrial Complex (Phase-I),
Hosur 635 126.

... Respondents in W.P.No.15094 of 2018

1.The Joint Director,
Industrial Safety and Health,
Hosur.

2.The Secretary,
Micro Labs & Brown & Burk Workers' Union,
60B, SIPCOT Housing Colony,
Opp : Lal, SIPCOT, Hosur 635 126.

3.C.Pughalendhi ... Respondents in W.P.No.18141 of 2018

PRAYER in W.P.No.15094 of 2018 : Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Mandamus, to direct the first respondent authority to conduct enquiry in the petition filed by the petitioners' union along with other petitioners in under the Section 3 of the Tamil Nadu Industrial Establishment (Conferment of Permanent status to workmen) Act, 1981.

PRAYER in W.P.No.18141 of 2018 : Petition 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 his proceedings File No.B/2405/2018 and quash its order dated 20.06.2018.

W.P.No.15094 of 2018

For Petitioners : Mr.Balan Haridass for
Mr.S.Parthasarathi

For Respondents : Mr.Anand Gopalan for
M/s.T.S.Gopalan & Co. for R2
: No appearance for R1

W.P.No.18141 of 2018

For Petitioner : Mr.Anand Gopalan for
M/s.T.S.Gopalan & Co.

For Respondents : Mr.Balan Haridass for
Mr.S.Parthasarathi for R3
: No appearance for R1 and R2

C O M M O N O R D E R

The petitioner Management has approached this Court by way of W.P.No.18141 of 2018, seeking to challenge the order passed by the first respondent authority dated 20.06.2018, in ordering

maintenance of status-quo of the employment of the workmen employed under the petitioner Management, pending adjudication of the issue of grant of permanent status under the Tamil Nadu Industrial Establishments (Conferment of permanent status of workmen) Act, 1981.

2. The learned counsel for the petitioner Management would submit that the first respondent authority has not vested with the statutory power to grant interim orders, protecting the employment of the workman, pending adjudication of the issue of grant of permanent status to the workman.

3. On behalf of the workman, W.P.No.15094 of 2018 has been filed, seeking direction to first respondent to conduct enquiry and complete the process of enquiry within a stipulated time.

4. The learned counsel appearing for the workman would submit that the grant of interim order by the first respondent is permissible, since the power is implicit in the scheme of 1981 Act. Therefore, such order cannot be successfully challenged by the Management.

5. This Court has considered the submissions made on behalf of the petitioner Management as well as the respondent workman and is of the view that though the first respondent can adjudicate the issue of grant of permanent status to the workman, certainly, he is not vested with any power of grant of interim order, pending consideration of the dispute raised by the workman. Such interim protection granted by the first respondent authority is alien to the scheme of the Act. Therefore, this Court is of the view that the order passed by the first respondent cannot be countenanced in law.

6. However, in view of the order of status-quo granted by the first respondent, the workman had been continued in employment. Therefore, this Court does not want to disturb the status-quo till the completion of the adjudication undertaken by the first respondent in regard to the dispute raised by the workman. This Court in order to find via media solution to the issue raised in both the writ petitions and in consideration of the submissions made on behalf of the learned counsels appearing for either side and also in consideration of the pleadings placed on record, in the fitness of things, this Court passes the following order:-

(i) The first respondent authority is directed to complete the process of enquiry in regard to the dispute raised by the workman, on or before 13.05.2019. The status quo as ordered by the authority, shall continue till 13.05.2019 or till the date of completion of adjudication, whichever is earlier.

(ii) Under no circumstances, such order of status quo shall be continued after the above mentioned date, since the first respondent authority has not vested with any power to grant any interim order, pending adjudication of the dispute raised by the workman.

7. The learned counsel for the petitioner Management would submit that in view of the interim order passed, the workman had been continued in service and that should not be taken advantage by the workman in the adjudicatory process taken by the first respondent.

8. This Court makes it clear that the continuance of the workman by the orders passed by the authority, shall not be held against the Management and in any case, the issue of whether the workman is to be treated as trainee or not, has to be decided after the evidence to be let in before the first respondent authority.

9. With the above direction, both the writ petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

gsk

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The Joint Director of Industries (Safety & Health),
Authority under the Tamil Nadu Industrial Establishment
(Conferment of Permanent status to worker) Act, 1981,
Hosur - 635 126.
- 2.The Management,
Micro Labs Limited,
No.92, SIPCOT Industrial Complex (Phase-I),
Hosur 635 126.
- 3.The Secretary,
Micro Labs & Brown & Burk Workers' Union,
60B, SIPCOT Housing Colony,
Opp : Lal, SIPCOT, Hosur 635 126.

4. The Joint Director,
Industrial (Safety & Health),
Hosur - 635 126.

+1cc to Mr.S.Parthasarathi, Advocate, SR.No.27756

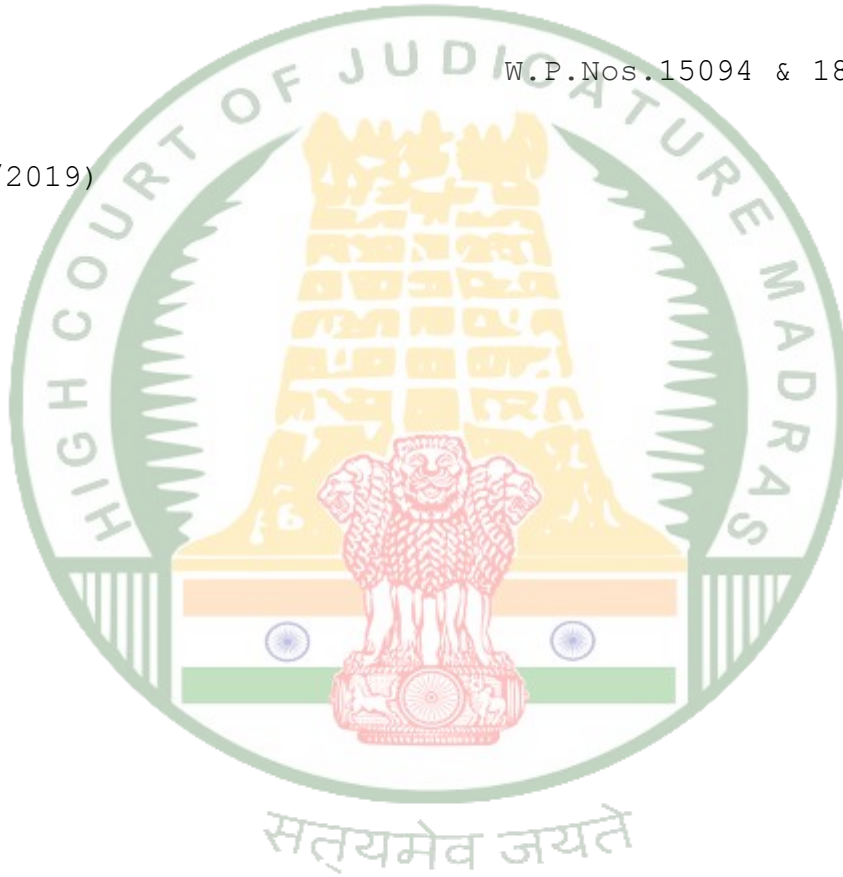
+1cc to M/s.T.S.Gopalan & Co., Advocate, vide SR.No.27305

+1cc to Mr.S.Parthasarathi, Advocate, SR.No.27756

(dated: 18/06/2019)

W.P.Nos.15094 & 18141 of 2018

Kak(10/05/2019)



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