

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :01.11.2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.563 to 565 and 899 to 907 of 2014

The Chairman - cum - Managing Director,
NTC Mills having office at
'NTC House',
No.35-B Somasundaram Mills Road,
Coimbatore - 641 009.

...Petitioner in all

...Vs...

D.ABELRAJ ... R1 IN W.P.NO.563 OF 2014

E.COUMARANE @ MOHANRAJ ... R1 IN WP NO.564 OF 2014
S/O. EGAMBARAM

C.BALAKRISHNAN ... R1 IN WP No.565 of 2014
S/O. CHINNASAMY

G.KOZHANDAISAMY ... R1 in WP No.899 of 2014
S/O.GNANAMUTHU

K.MANY ... R1 in WP No.900 of 2014
S/O.KANNAN

S.KANTHA ... R1 in WP No.901 of 2014
W/O.SUNDARAM

S.LAMBARD ... R1 in WP No.902 of 2014
S/O.SAVARIMUTHU

P.RAMALINGAM ... R1 in WP No.903 of 2014
S/O.PALANISAMY

M.MARIA IRUDAYASAMY ... R1 in WP No.904 of 2014
S/O.MARIKOLANDAI

R.KIRUBABURY @ SHIVARAJ ... R1 in WP No.905 of 2014
S/O.RAMALINGAM

S.SINNAPONNU
W/O.SENGANI

... R1 in WP No.906 of 2014

M.ADIVEERAMAN
S/O.MURUGESAN

... R1 in WP No.907 of 2014

THE GENERAL MANAGER,
SWADESHI COTTON MILLS,
CUDDALORE MAIN ROAD,
MUDALIARPET, PONDICHERRY - 4.

..R2 IN W.PS.563 TO 565,
899, 900, 902, 903, 905/2014.

PRESIDING OFFICER,
II ADDITIONAL DISTRICT JUDGE,
LABOUR COURT, PONDICHERRY.

...R3 IN ALL

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records in respect of the impugned order dated 30.09.2010, 30.09.2010, 26.09.2011, 26.09.2011, 30.09.2010, 30.09.2010, 30.09.2010, 30.09.2010, 30.09.2010, 30.09.2010 & 30.09.2010 passed in Claim Petition No.21 of 2008, 5/2008, 2/2010, 5/2010, 10/08, 34/2008, 14/08, 32/08, 15/08, 17/08, 13/08 & 29/08 by the Labour Court, Pondicherry and quash the same.

For Petitioner : Mr.C.Vijay Kumar
(in all WPs)

For Respondents : Mr.M.A.Abdul Wahab
for M/s.K.V.Subramanian Associates
(for R.1)
No appearance for R.2
(in all Wps)
R3 Labour Court

COMMON ORDER

The Orders dated 30.09.2010, 26.09.2011 passed in C.P.Nos.5/2008, 2/2010, 5/2010, 10/2008, 34/2008, 14/2008, 32/2008, 15/2008, 17/2008, 13/2008, 28/2008 & 21/2008 by the Labour Court, Pondicherry is under challenge in the present writ petitions.

2.The writ petitioner is the NTC Mills. The writ petitions are filed challenging the order passed in the claim petition mainly on the ground that the ex-gratia benefit due to these workmen under Special Voluntary Retirement Scheme framed by the Government of India implemented by the National Textile Corporation Mill in respect of mills under the control and

management of Corporation across the Country. The first respondent had accepted the Special Voluntary Retirement Scheme benefits and retired from service. The mill was under the Management of the petitioner Corporation. The second respondent thereafter taken over the management from the petitioner with effect from 01.04.2005.

3.The only dispute arose in the present writ petition is that whether the petitioner/management is liable to pay ex-gratia payment as per the terms and conditions of the Special Voluntary Retirement Scheme framed by the Government of India. It is not in dispute that the other benefits as per the Special Voluntary Retirement Scheme has been disbursed to the workmen concerned. The learned counsel appearing on behalf of the workmen also admitted the fact that the benefits including gratuity has been settled in favour of the workmen. However, the ex-gratia payment as applicable and stated in the scheme Special Voluntary Retirement Scheme has not been paid. Thus, the workmen were constrained to approach the Labour Court and the Labour Court considered the issue and held that the calculation of ex-gratia payment was not in accordance with the terms and conditions stipulated in the Special Voluntary Retirement Scheme and accordingly computed the amount and directed the management to pay said differential amount of said ex-gratia payment.

4.The Labour Court made a finding that the workmen are entitled for ex-gratia payment under the Special Voluntary Retirement Scheme introduced by the Management. The Circular filed as a Document No.4 also reveals the same, Document No.3 which is the Circular dated 12.09.1988 issued by the National Textile Corporation Limited on which the respondents Swadshi Cotton Mills is the unit would show that the ex-gratia should be paid on par with the gratuity. Thus, the number of years considered for assessing gratuity is also be taken into consideration for assessment of the ex-gratia payment under the Special Voluntary Retirement Scheme. The document produced before the Labour Court states that the length of service taken into account for payment of gratuity is to be taken into account for the purpose of payment of ex-gratia also.

5.Accordingly, the Labour Court computed the differential amount and passed an order in favour of the workmen. The writ petitioner/management was directed to settle the differential amount of ex-gratia payment in favour of the workmen.

6.This Court is of the considered opinion that the management is liable to settle the dues as per the terms and conditions of the Special Voluntary Retirement Scheme, when the workmen is able to establish before the Labour Court that the number of years taken into account for the payment of gratuity

is to be taken into consideration for the purpose of including the ex-gratia payment also, there is no reason for the management to reduce the number of years only for the payment of ex-gratia. Thus, the Management has committed an error in calculating the ex-gratia payment. The Labour Court considered these aspects and passed an order directing the writ petitioner/Management to settle the differential amount in favour of the workmen. Thus, there is no infirmity or perversity in respect of the order passed by the Labour Court in the claim petition.

7. Accordingly, the order dated 30.09.2010, 26.09.2011 passed in C.P.Nos.5/2008, 2/2010, 5/2010, 10/2008, 34/2008, 14/2008, 32/2008, 15/2008, 17/2008, 13/2008, 28/2008 & 21/2008 by the Labour Court, Pondicherry are confirmed and the writ petitions stand dismissed. No costs.

s/d-

Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

mrm

To

1. The General Manager,
Swadeshi Cotton Mills,
Cuddalore Main Road,
Mudaliarpet, Pondicherry - 4.
2. Presiding Officer,
II Additional District Judge,
Labour Court, Pondicherry.

3. The General Manager
Sri Bharathi Mills
Pondy- Cuddalore Main Road
Mudaliarpet, Pondicherry-4.

+1 CC to Mr.K.V. Subramanian, Advocate sr 90624.

+12 CCS to Mr.C.V.Vijayakumar, Advocate sr 91633, 91634, 91669
to 91678

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of 2014

RV(CO)
SP(03/12/2019)