

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.10.2019

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.23788 and 23789 of 2019
and W.M.P.Nos.23656 and 23658 of 2019

P.Uma ...Petitioner in W.P.No.23788 of 2019
N.Rajeshwari ...Petitioner in W.P.No.23789 of 2019

vs.

- 1.The District Registrar/The Joint Director(Tea),
Department of Industries & Commerce Government of
Tamil Nadu, INDCOSERVE Campus, Coonoor - 643 101,
The Nilgiris District.
- 2.The Managing Director,
The Salisbury Industrial Co-operative Tea Factory Ltd.,
Gudalur - 643 212,
The Nilgiris District.Respondents in both WPs

Common Prayer: Writ Petitions filed under Article 226 of Constitution of India, seeking for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the order dated 30.06.2019 of the 2nd respondent and quash the same as null and void and consequently direct the respondents to reinstate the petitioners in service and retain them in service till they attains 60 years of their age on 30.06.2021.

For Petitioners in both WPs : Mr.K.Lavan

For Respondents in both WPs : Mr.D.Venkatachalam

Special Government Pleader (co-op)

COMMON ORDER

These writ petitions have been filed by the petitioners to quash the order dated 30.06.2019 of the second respondent and the same as null and void and consequently direct the respondents to reinstate the petitioners in service and retain them in service till they attains 60 years of their age on 30.06.2021.

2.The case of the petitioner is that the petitioners joined duty in the second respondent Tea Factory in the year 1983 as

grader and packer. In the year 1999, Special Bylaws relating to the service conditions of the employees of the second respondent were framed and approved by the District Registrar of Industrial Cooperative Society, Nilgiris District. At the time of retirement, the petitioners sent representations dated 10.06.2019, to the respondents requesting them to permit to continue in service till their completion of 60 years of age on 30.06.2021. However, the representations were not considered till date, hence, the present writ petitions have been filed before this Court.

3.While writ petitions viz., W.P.No.17786 of 2019 and W.P.No.17787 of 2019 are pending before this Court, the second respondent has passed the impugned order by rejecting the earlier representation of the petitioners and the same has now become infructuous. Challenging the said rejection order, the petitioners have filed another two writ petitions viz., W.P.No.23788 of 2019 and W.P.No.23789 of 2019, to quash the impugned order of the second respondent and direct the respondents to reinstate the petitioners in service and retain their service till they attain 60 years of their age on 30.06.2021.

4.The learned counsel appearing for the petitioners would submit that the petitioners were the permanent employees and they were superannuated and retired from the service on 30.06.2019. He further would submit that earlier occasion, the petitioners have filed writ petitions to extend their service till the completion of 60 years of their age i.e., on 30.06.2021. The petitioners made representations dated 10.06.2019 and 29.06.2019 since the petitioners were working as last grade employees and their retirement age is 60 years, whereas the petitioners were superannuated and retired from the service at the age of 58 years is unsustainable one. Hence, he prayed for allowing the writ petitions.

5.Per contra, the learned Special Government Pleader appearing for the respondent would submit that as per common standing orders, all the employees who are working in the respondent Factory superannuated and retired at the age of 58 years. Hence, the petitioners request to reinstate the service till they attain 60 years of their age is impermissible.

6.The very same issue was discussed by this Court in W.P. (MD)No.14737, 14790, 13416, 10299, 9617 to 9621 & 13562 of 2016 dated 30.08.16. The relevant paragraph is extracted hereunder:

"19.Although the petitioners are correct in contending that Rule 149(3) of the Tamil Nadu Co-

operative Societies Rules, 1988, says that in the matter of appointment and retirement of the co-operative employees, the rules applicable to the Government servant shall be followed, therefore the first proviso to Rule 56(1)(a) of the Fundamental Rules of the Tamil Nadu Government, stating that all basic servants shall retire on attaining the age of 60 years alone would apply to the case of the petitioners, as rightly contended on behalf of the respondents, the posts which the petitioners are holding namely, Salesman, Selection Grade Senior Factory Assistant, Selection Grade Mazdoor and Special Senior Mazdoor respectively, do not fall within the classes and categories of Government servants relating to Tamil Nadu Basic Service, as extracted supra. Further, Fundamental Rule 9(iii) shows that Basic Service includes all services in the following appointments unless declared by Government to be superior:-

a) Service as Office Assistant, Head Office Assistant, Chobdar or Duffadar;

b) Service in Posts the pay of which does not exceed Rs.750/-

All other service is superior."

7. Considering the facts and circumstances, initially the petitioners were appointed as casual labourers, thereafter the service of the petitioners were regularized and absorbed as permanent employees. As per the common standing orders, the petitioners have not produced any documents to show that they were working as basic servants and also did not show that they are eligible on par with basic servants and retiring at the age of 60 years. In the absence of any provision or regulation, this Court is not inclined to interfere with the order passed by the second respondent order. The above decision is squarely covered in these writ petitions and accordingly, the Writ Petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

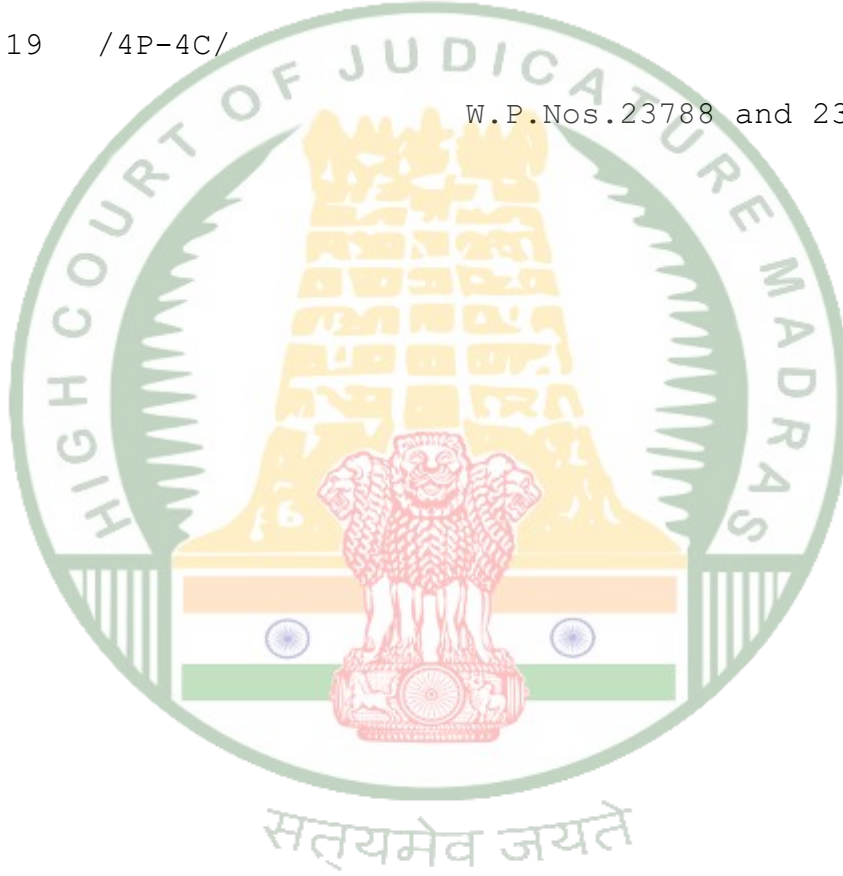
To

The District Registrar/The Joint Director(Tea),
Department of Industries & Commerce Government of
Tamil Nadu, INDCOSERVE Campus,
Coonoor - 643 101,
The Nilgiris District.

+lcc to M/s.K.Lavan, Advocate SR.No.88589
+lcc to The Government Pleader SR.No.88234

AKM/17.12.19 /4P-4C/

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