

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :03.09.2019

CORAM

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

W.P.No.497 of 2017

and

W.M.P.Nos.529, 530 & 531 of 2017

Plantation Labour Association,
affiliated with AITUC Registration No.1659,
rep.by its President
Mr.T.Balakrishnan,
No.85, Jawahar Pet,
Coonoor, Nilgiris District.

... Petitioner

..vs..

1.The Principle Secretary to Government,
Environment & Forest Department,
Secretariat, Fort.St.George, Chennai - 600 009.

2.The Managing Director,
Tamil Nadu Tea Plantation Corporation Limited,
TANTEA Complex,
Coonoor - 643 101, Nilgiris District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the letter No.8433/FR.8/2011-14 of the 1st respondent dated 09.10.2015 addressed to the 2nd respondent as well as the communication in Na.Ka.No.P3/3821/2011 sent by the 2nd respondent dated 02.11.2015 to the President of the petitioner association and quash them as null and void and consequently direct the respondents to fill up the post of Drivers by selection/transfer from the permanent workers who possess valid driving licence by paying suitable monthly scale of wages (basic wage) in addition to the variable dearness allowance applicable to the plantation worker by taking into consideration of G.O.Ms.No.95, Environment & Forest Department dated 07.08.2009 & the proposal dated 16.04.2011 of the 2nd respondent.

For Petitioner : Mr.K.Lavan

For Respondents : Mr.Thangavadana Balakrishnan

O R D E R

The order impugned dated 09.10.2015, is an internal letter sent by the Principal Secretary to Government, Environment and Forests Department, Secretariat, Chennai to the Managing Director, Tamil Nadu Tea Plantation Corporation Limited, Coonoor, Nilgiris. Another letter dated 02.11.2015 sent to the President Plantation Labour Association by the Tamil Nadu Tea Plantation Corporation Limited is also under challenge in the present writ petition.

2. The second respondent sent a proposal to amend the Service Rules of the Corporation to delete the provisions for recruitment of drivers. The proposal of the second respondent to the Government to amend the Staff Service Rules of Tamil Nadu Tea Plantation Corporation Limited as to delete the provision for recruitment of drivers in respect of deletion of provision for the recruitment of drivers was rejected by the Government of Tamil Nadu. The said decision was communicated to the writ petitioner Association by the second respondent.

3. Challenging the above said two orders, the learned counsel for the writ petitioner states that the writ petitioners are serving in the second respondent/Tamil Nadu Tea Plantation Corporation Limited as daily wage employees for a considerable length of time. They are permanent workers of the Tamil Nadu Tea Plantation Corporation Limited and working on daily wage basis. In view of the existing Service Rules, these drivers are unable to get the benefits on par with other employees, who are working in Tamil Nadu Tea Plantation Corporation Limited on regular basis. Thus, they submitted a representation and the second respondent considered their case and submitted a proposal to the Government for issuing amendment to the Service Rules of the Corporation, so as to delete the provision for recruitment of drivers. However, the said proposal was rejected by the Government citing that the 'more power, as the instant proposal for amending the Service Rules of Tamil Nadu Tea Plantation Corporation Limited in respect of recruitment of drivers in order to facilitate the plantation workers to draw the time scale of pay leading to an enhancement of salary which has been assessed at Rs.1500 per month during 2011, may not be worth considering in view of the fact that such workers who are already doing the said job and the Court case filed by the plantation workers in W.P.No.7162/2013 has been withdrawn by them subsequently on 03.11.2014'.

4. This apart, the learned counsel appearing on behalf of the second respondent also made submissions that the second respondent/Tamil Nadu Tea Plantation Corporation Limited is running in huge loss and about 30 crores had already been borrowed from the Government in order to compensate the financial loss to the Tamil Nadu Tea Plantation Corporation Limited. Under these circumstances, it may not be possible to implement or amend the rules which may cause further financial loss to the second respondent/Tamil Nadu Tea Plantation Corporation Limited.

5. This Court is of the considered opinion that amendment of the Service Rules of the Corporation is the prerogative of the administration and it is the policy decision and the proposal sent by the second respondent is rejected by the first respondent. If at all the writ petitioners are having any right in respect of their services already rendered in the Tamil Nadu Tea Plantation Corporation Limited, they have to establish the same before the appropriate forum. In other words, an adjudication is required for the purpose of establishing the legal rights. Admittedly no such adjudication took place. Thus, the petitioners are bound to establish their legal right before the Competent Authority/appropriate forum for the purpose of redressing their grievances, if any exist. This Court under Article 226 of the Constitution of India cannot adjudicate such disputed issues, which require verification of original documents, service particulars as well as the evidences and such adjudications are to be done by the parties concerned in the manner known to law.

6. Under these circumstances, the impugned order dated 09.12.2015, rejecting the proposal submitted by the first respondent deserves no interference and the petitioners are at liberty to approach Competent Authority/Competent Forum for the purpose of establishing their rights through an adjudication in the manner known to law.

7. The learned counsel for the writ petitioner made a submission that even the minimum wage fixed by the District Collector has not been paid to the members of the petitioner association. In such an event, the petitioner association is at liberty to approach the District Collector for appropriate action under law.

8. With this liberty, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The Principle Secretary to Government,
Environment & Forest Department,
Secretariat, Fort.St.George, Chennai - 600 009.
- 2.The Managing Director,
Tamil Nadu Tea Plantation Corporation Limited,
TANTEA Complex,
Coonoor - 643 101, Nilgiris District.

+1cc to the Special Government Pleader Sr.76409
+1cc to M/s.K.Lavan, Advocate Sr.76981 [21/11/2019]

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srg 03/10/2019