

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.10.2020

CORAM

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.39231 of 2002
W.M.P.No.58509 of 2002

The Management of Nagammal Mills Ltd
Nagercoil-629 003.

... Petitioner

Versus

1. The Presiding Officer,
Labour Court,
Tirunelveli.

2.C.Muthiah
3.T.Sumithira
4.V.Selvamuthu
5.A.Justus
6.N.Ganesan
7.N.Thangappan
8.S.Tharmaraj
9.P.Achuthan
10.V.Ramalingam
11.N.Bennet
12.N.Ramaswamy

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari to call for the records of the 1st respondent in C.P.No.188/92 and quash its order dated 29.05.2002.

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

O R D E R

The prayer sought for herein is for a Writ of Certiorarified Mandamus calling for the records of the 1st respondent in C.P.No.188/92 and quash its order dated 29.05.2002.

2.This Court feels that, the issue raised in this Writ

Petition is in very narrow compass, in which, the respondents 2 to 12 are the employees /workmen of the Writ Petitioner / Management. All of them retired from service prior to 04.11.1991. At this juncture, because of the demand of additional bonus, the Employees Union and the management had come to a settlement under Section 18 (1) of the Industrial Disputes Act. Accordingly, apart from regular bonus payable to the employees, some Ex-Gratia payment was also agreed to be paid to the employees.

3. In this context, it is a case of the employees that though these employees retired on superannuation prior to 04.11.1991 that is the date on which settlement under Section 18 (1) of the Industrial Disputes Act reached between the parties, they are also equally entitled to have Ex-Gratia benefit between April 1990 and March 1991.

4. In this context, since the said Ex-Gratia benefit was not paid to the employees, they raised industrial disputes where Labour Court that is the first respondent herein has passed an order on 29.05.2002 against which the Management preferred this Writ Petition with aforesaid prayer.

5. I have heard the learned Counsel for the petitioner who would submit that, as per the settlement under Section 18 (1) of the Industrial Disputes Act dated 04.11.1991, they are eligible to get Ex-Gratia benefit. As agreed upon the said agreement under Section 18 (1) of the Industrial Disputes Act, Ex-Gratia payment had already been paid to other employees.

6. However in so far as these employees are concerned, admittedly they left service as they retired before 04.11.1991 and their names did not find in the roll as on 04.11.1991. Accordingly they were not paid Ex-Gratia payment.

7. The learned Counsel for the petitioner would further contend that, however the Labour Court considering all these aspects, has come to the conclusion that the employees who are the respondents 2 to 12 herein who retired from service as on 04.11.1991, are also entitled to get Ex-Gratia payment since the period sought for such benefit is from April 1990 to March 1991 and for the said period, all other employees, who are otherwise on the roll of the employees as on 04.11.1991, were also paid such Ex-Gratia payment. Therefore, the same benefit can be extended to these employees. Accordingly, the amount that is Ex-Gratia payment payable to each of the employees have been quantified and calculated and a tabular column in this respect has also been accepted by the Labour Court.

8. The learned Counsel for the Petitioner / Management has

pointed out Clause 6 of the Settlement under Section 18 (1) of the Industrial Disputes Act to state that in view of the Ex-Gratia payment which has been settled, the Employee's Union agreed to extend their full and whole-hearted co-operation for increased production and better and smooth working of the mill and also not to resort to any action like strike etc., under any circumstances.

9. Pointing out this, the learned Counsel for the Petitioner / Management would contend that Clause 6 of the agreement, specifically made on 04.11.1991, was for the employees who are all already in the roll as on the date of agreement. In view of the said Clause 6, strictly speaking, the benefits agreed or payable to the employees, may not be applicable to those who have already left from service as on 04.11.1991.

10. The said contention made by the learned Counsel for the petitioner is not appealing to this Court.

11. Whenever Settlement under Section 18 (1) of the Industrial Disputes Act is made, where certain benefits are agreed, and the settlement has been entered upon which is agreeable between the employees and the management, those benefits if at all available to the employees, on particular date for the period prior to the date of settlement and also for future benefits after the date of settlement, before which, if some of the employees due to the superannuation retire from service, those employees may also be entitled to get benefits which were agreed based on the settlement prior to the said date.

12. In the case on hand, the period in calculation is from April 1990 to March 1991 that is before the date of settlement on 04.11.1991, and for the said period admittedly other employees who have been continuously in service as on 04.11.1991, had been paid Ex-Gratia payment. Therefore, for the said period, certainly, these respondent employees are also entitled to get such benefits.

13. In that view, this Court feels that, absolutely there is no infirmity in the impugned order passed by the Labour Court. Therefore, no plausible reason is available for the Petitioner / Management to successfully challenge the same and accordingly, this Court feels that, this Writ Petition is failed.

14. Consequently, the Writ Petitioner / Management is directed to pay the said benefit to the respondents 2 to 12 / employees for the period from April 1990 to March 1991 as per the calculation agreed upon or accepted by the Labour Court in

the impugned order within a period of three months from the date of receipt of the copy of this order.

15.With these observations, this Writ Petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

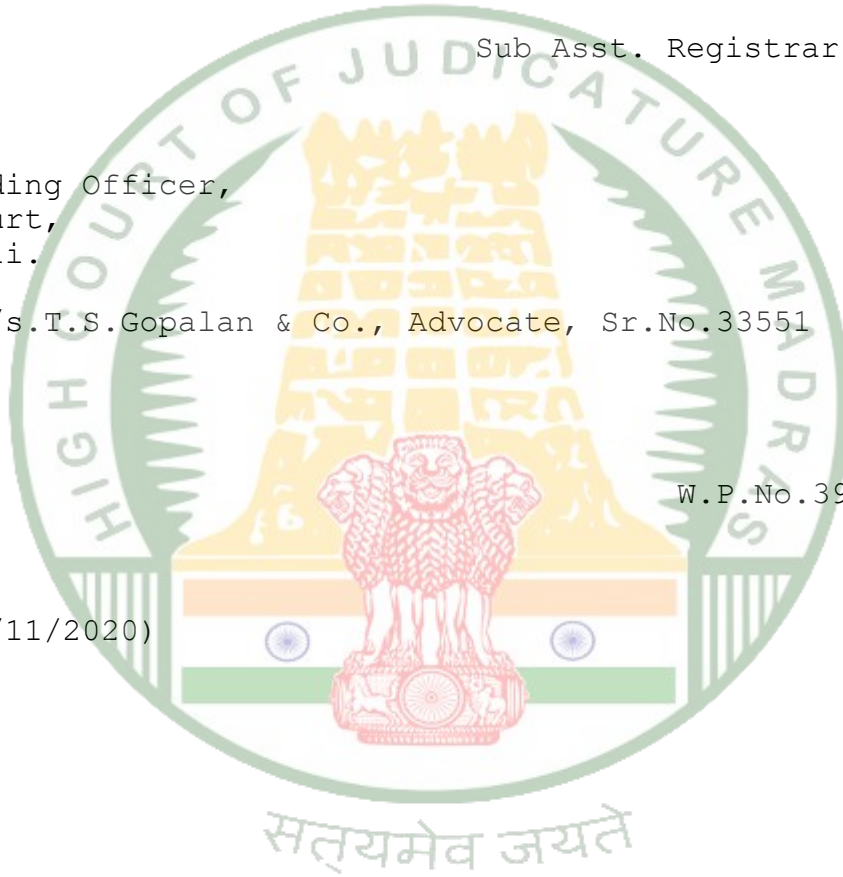
To

The Presiding Officer,
Labour Court,
Tirunelveli.

+1cc to M/s.T.S.Gopalan & Co., Advocate, Sr.No.33551

W.P.No.39231 of 2002

gj (co)
rr ii (06/11/2020)



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