

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2020

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THE HONOURABLE MR.JUSTICE R. SURESH KUMAR

W.P. No. 19854 of 2008 and
M.P. Nos. 1 and 2 of 2008 and
M.P. Nos. 1 to 4 of 2009

Amman Wovensacks Employees Union
(Regn No. RTU 1042/96)
Rep. by its General Secretary,
No. 42, Cuddalore Road,
Bharathi Mill Thittu, Mudaliarpeta,
Puducherry -605 004. Petitioner

-vs-

1. The Collector-cum-District Magistrate,
Puducherry.
2. The Tamil Nadu Industrial Investment
Corporation Limited,
Rep by its Chairman,
New No. 692, Anna Salai,
Nandanam,
Chennai - 600 035.
3. M/s. Amman Wovensacks Limited,
Rep. by its Managing Director,
No.4&5, V Floor, 'B' Block,
24, Thanikachlam Road,
T.Nagar, Chennai - 600 017. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the second respondent to first run the third respondent company falling which to lease or assign the running of the factory and only if these are found to be not feasible, go in for sale and disburse to each of the workman whose names are given in the typed set of papers the amounts mentioned in their respective column before appropriate the balance.

For Petitioner : Mr. N.G.R. Prasad

For Respondents : Mr. I. Sathish
Standing Counsel for R2

ORDER

The prayer sought for herein is for a Writ of Mandamus, to direct the second respondent to first run the third respondent company failing which to lease or assign the running of the factory and only if these are found to be not feasible, go in for sale and disburse to each of the workman whose names are given in the typed set of papers the amounts mentioned in their respective column.

2. The members of the petitioner's Union were the employees of the third respondent / Management. After some time, the third respondent Unit become sick and they were not able to run. Therefore, it seems that, the third respondent has not replied to pay the Statutory Dues payable to the employees of the third respondent / Management. Ultimately, the statutory dues to the employees of the third respondent since has not been paid, in order to get those statutory dues, which includes Gratuity and Bonus, though attempt has been made by the petitioner / Union to get back the same, since it has not been materialized, the petitioner / Union filed this Petition with the aforesaid prayer.

3. Heard Mr.N.G.R.Prasad, learned counsel appearing for the petitioner who has brought to the notice of this Court that, since the third respondent Company could not run the factory and there was no possibility in running the third respondent factory, at one point of time, it was decided that, the property belongs to the third respondent could be sold by way of public auction and in this regard, pursuant to the orders passed by this Court, the task was given to the second respondent to sell the property belonging to the third respondent by public auction. He also submits that, pursuant to the said orders of this Court, the second respondent took the said task and accordingly, the property belongs to the third respondent was sold in public auction and the sale proceeds to the extent of Rs.35,00,000/- (Rupees Thirty Five Lakhs Only) was deposited by the second respondent at Indian Bank, Cuddalore Main Branch some time in the year 2009, of course in the account of W.P. No. 19854 of 2008.

4. Thus the learned counsel appearing for the petitioner would submit that, since the amount is lying in the said account, due to which, the Gratuity due as well as the Bonus for the particular year payable to the employees can very well be directed to be disbursed to each of the employees who are the members of the petitioner's union. In this regard, the learned counsel would further submit that, the list of employees with the respective dues payable to each of the employees also been given in the typed set of papers and accordingly, the total amount which comes about Rs. 25,43,408/- can very well directed

to be paid to the employees as per the list annexed therein.

5. Heard the learned Standing Counsel appearing for the second respondent, who would submit that, as has been stated by the learned counsel appearing for the petitioner, the second respondent having sold the property belonging to the third respondent / Management, of course pursuant to the orders passed by this Court, deposited the sale proceeds in the Indian Bank, Cuddalore, Main Branch in the year 2009 and the said amount is still lying in the said account, therefore, statutory dues, Gratuity and Bonus can very well be disbursed.

6. I have considered the said submissions made by the learned counsel appearing for both parties and perused the materials placed before this Court.

7. Since there was no possible or feasible reasons to run the third respondent / Management factory, at one point of time, it was decided to sell the property belonging to the third respondent and accordingly, the entire property had been sold and the sale proceeds also as indicated above had been deposited in the Bank Account in the said W.P. account by the second respondent.

8. Therefore, the prayer sought for originally in this Writ Petition to run the third respondent factory has become completely not feasible and in fact it become infructuous one.

9. However at the same time, since the employees Union filed this Writ Petition for the prayer, not only for the third respondent to run the industry, but also for the employees of the industry, who are the members of the petitioner Union and since the third respondent is not able to run the industry safely and virtually closed and property was sold in the year 2009, the only remedy available would be to get the statutory dues, for which, they are entitled to.

10. In this context, the sale proceeds of the property belongs to the third respondent / Management can very well be utilized. Therefore out of the said amount, Statutory Dues payable to each of the employees who are the members of the petitioner / Union, especially the Gratuity, can very well be paid.

11. Since the Gratuity Authority is not a party before this Court in this Writ Petition, in order to disburse the said amount payable to each of the employees under the Head "Gratuity", in their account, the Deputy Commissioner of Labour, Puducherry can very well proceed into and accordingly, this Court is inclined to pass the following order:-

(i) That the Deputy Commissioner of Labour, Puducherry, is hereby directed to take necessary steps to verify the amount lying in the aforesaid Writ Petition in W.P. No. 19854 of 2008, account at Indian Bank, Cuddalore, Main Branch from the year 2009 and accordingly file necessary request to the said Bank pursuant to this order to withdraw the said amount for the purpose of disbursement of Gratuity Due payable to the employees of the third respondent, who are the members of the petitioner / Union and the list of employees would be furnished by the petitioner / Union to the Deputy Commissioner of Labour, Puducherry shortly and based on which, according to the due payable to each of the employees only under Head of Gratuity with bonus, it can be paid or disbursed by the Deputy Commissioner of Labour, Puducherry.

(ii) After disbursing the Gratuity amount with Bonus payable to each of the employees, the remaining amount, if any, available in the account, the same shall be equally disbursed to the employees towards interest for the said due. It is further made clear that, in the entire amount of Rs.35,00,000/- principle with accrued interest till date, the first charge shall be for the Provident Fund Authority whose claim for disbursing the Provident Fund due to these employees have already been recognized and order to that effect has been passed in W.P. No. 33576 of 2012. After deducting the said amount for the purpose of Provident Fund, the remaining amount alone in the said account shall be taken as a entire corpus for the distribution for Gratuity, Bonus and Interest as indicated above.

(iii) The needful as indicated above shall be undertaken and completed by the Deputy Commissioner of Labour, Puducherry, within a period of three months from the date of receipt of a copy of this order.

(iv) Since the Deputy Commissioner is not a party in this Writ Petition, the Registry is directed to send a copy of this order to the Deputy Commissioner of Labour, Puducherry for the aforesaid compliance.

12. With these directions, the Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

sd/
ASSISTANT REGISTRAR

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

vji

To

1. The Collector-cum-District Magistrate,
Puducherry.
2. The Chairman, The Tamil Nadu Industrial Investment
Corporation Limited,
New No. 692, Anna Salai,
Nandanam, Chennai - 600 035.
3. The Deputy Commissioner of Labour,
Puducherry.

+1 CC to Mr. I. Sathish, Advocate on payment of necessary
charges SR.NO.

W.P. No. 19854 of 2008 and
M.P. Nos. 1 and 2 of 2008 and
M.P. Nos. 1 to 4 of 2009

SSI (CO)

TA-19/12/2020

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