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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2020

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P. Nos.37767 of 2007 & 11142 of 2008
and M.P. No.2 of 2007 & W.M.P. No.38649 of 2016

M.Rajan ... Petitioner in both cases

-vs-

1.The State of Tamil Nadu,
rep. by its Secretary,
Industries Department,
Secretariat, Chennai-600 009.

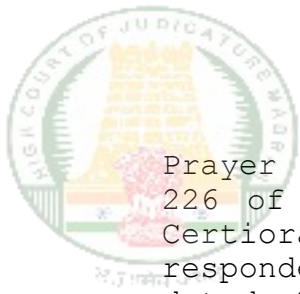
2.The Secretary,
Labour & Employment Department,
Secretariat, Chennai-600 009.

3.The Chairman & Managing Director,
Tamil Nadu Cements Corporation Ltd.,
LLA Buildings, II Floor,
735, Anna Salai,
Chennai 600 002.

4.The Deputy General Manager,
Tamil Nadu Asbestos (Pipes),
Mayanur, Karur District,
Mayanur-639 108.

... Respondents in both cases

Prayer in W.P. No.37767 of 2007: Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified mandamus to call for the records of the 4th respondent notification No.TA-Myr/P&A/Closure/2005 dated 19.07.2005 and to quash the same in so far as the petitioner is concerned who is enlisted as a "Workman" whose services would be terminated on account of the closure of 4th respondent undertaking in pursuant to G.O. Ms. No.3 Industries (M.I.D.2) Department dated 5.1.2005 of the first respondent herein and to direct the 3rd respondent herein to upgrade the post of Store-Keeper to Junior Management cadre, in which the petitioner herein is holding the said post and to absorb him in anyone of the sister concerns under the 3rd respondent herein.



Prayer in W.P. No.11142 of 2008: Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified mandamus to call for the records of the 4th respondent herein in its order Ref. No.TANCEM/TA(P)/Myr/2008 dated 21.01.2008 and to quash the same in so far as the petitioner is concerned and to direct the 3rd respondent herein to upgrade the post of Store-Keeper to Junior Management cadre, in which the petitioner herein was holding the said post and consequently to absorb him in anyone of the sister concern under the 3rd respondent herein.

For Petitioner
in both cases : Mr.G.Purushothaman

For Respondents
in both cases : Mrs.P.Rajalakshmi,
Additional Government Pleader
for R1 & 2

Mr.A.Sivaji for R3 & 4

COMMON ORDER

W.P. No.37767 of 2007 has been filed challenging the Notification No.TA-Myr/P&A/Closure/2005 dated 19.07.2005 issued by the Deputy General Manager, the fourth respondent herein in pursuant to G.O. Ms. No.3 Industries (M.I.D.2) Department dated 5.1.2005 and seeking a direction to the Chairman & Managing Director, the third respondent herein to upgrade the post of Store-Keeper to Junior Management cadre, in which the petitioner herein was holding the said post and to absorb him in anyone of the sister concern under the 3rd respondent herein.

W.P. No.11142 of 2008 has been filed challenging the order bearing Ref. No.TANCEM/TA(P)/Myr/2008 dated 21.01.2008 passed by the Deputy General Manager, the fourth respondent herein and seeking a direction to the Chairman & Managing Director, the third respondent herein to upgrade the post of Store-Keeper to Junior Management cadre, in which the petitioner herein was holding the said post and consequently to absorb him in anyone of the sister concern under the 3rd respondent herein.

2.Learned counsel appearing for the petitioner would submit that the petitioner, who was appointed as Junior Assistant on 30.01.1984 under the Tamil Nadu Asbestos Pressure Pipe Project, the fourth respondent herein, was given promotion as Assistant on 27.10.1984. While so, the fourth respondent herein issued a Notification No.TA-Myr/P&A/Closure/2005 dated 19.07.2005 to the



third respondent for getting necessary permission for closure of the Unit. Moreover, the petitioner's Junior L.Mohana Sundar was promoted as Superintendent in the year 2008, but, the petitioner was denied and discriminated. In the meanwhile, Tamil Nadu Asbestos (Pipes), the fourth respondent herein was closed vide G.O. Ms. No.3 Industries (MID 2) Department dated 05.01.2005. Challenging the same, the petitioner has come to this Court with the writ petition in W.P. No.37767 of 2007. During the pendency of the writ petition, he was given compensation and gratuity. As it is not commensurate to his length of service, the same was questioned in another Writ Petition in W.P. No.11142 of 2008. Thereafter, the petitioner was issued with cheques for payment of compensation and gratuity, but, he has not accepted the same on the premise that acknowledging the cheques would affect the root of his challenge.

Learned counsel for the petitioner argued that in view of long passage of time, 6% of interest could be suitably enhanced.

3.Mr.A.Sivaji, learned counsel for respondents 3 and 4 refused to accept the argument on the ground that once the fourth respondent was closed and the petitioner was paid with suitable compensation and equal amount of gratuity, it is not for him to come to this Court. Since the petitioner is a workman, he has to go before the Labour Court, if he has any grievance.

4.Since the fourth respondent was closed in the year 2008, without going into the aspect as to whether the petitioner is a workman or not, this Court deems it fit to give a direction to respondents 3 and 4. Accordingly, respondents 3 and 4 are directed to pay the amount of compensation and also the gratuity to the petitioner by issuing a fresh cheque with interest at the rate of 8% from the date of issuance of cheque till the date of realisation within a period of three weeks from the date of receipt of a copy of this order. With the above direction, the writ petitions stand closed. Consequently, connected M.Ps are closed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar



To

WEB COPY

1.The Secretary,
State of Tamil Nadu,
Industries Department,
Secretariat, Chennai-600 009.

2.The Secretary,
Labour & Employment Department,
Secretariat, Chennai-600 009.

+1cc to M/s.A.Sivaji, Advocate Sr.20733
+1cc to M/s.G.Purushothaman, Advocate Sr.20776
+1cc to M/s.A.Sivaji, Advocate Sr.20732
+1cc to the Government Pleader Sr.21179

W.P. Nos.37767 of 2007 & 11142 of 2008
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srg 10/07/2020