

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :24.11.2020

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.19310 of 2013

and

M.P.No.1 of 2013

- 1.NLC Mazdoor Sangh,
Rep. By its General Secretary,
V.Murugan.
- 2.N.Rajagopal
S/O. R.Natarajan,
The President NLC Mazdoor Sangh. ... Petitioners

Vs.

- 1.Government of India,
Ministry of Labour,
Shram Aur Rozgar Matralaya,
New Delhi.
- 2.The Regional Labour Commissioner (Central)
Office of the Regional Labour Commissioner,
No.14, Haddows Road,
Sastri Bhavan,
Chennai 600 006.
- 3.Neyveli Lignite Corporation Limited
Rep by its Chairman-cum- Managing Director,
Neyveli Township,
P.O.Neyvali 607 801. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the 3rd respondent not to deduct 8 days wage cut from out members from June 2013 salary payable in July 2013 or any day thereafter and pass such further or other orders as this Court may deem fit and proper in the circumstance of the case.

For Petitioners : M/S.G.B.Saravanabhavan

For Respondent(s): M/S.R.Meenakshi, CGSC for R1

: M/S.N.Nithiandam for R3

ORDER

This writ petition has been filed by the petitioner, to direct the 3rd respondent not to deduct 8 days wage cut from the members from June 2013 salary payable in July 2013 or any day thereafter.

2.The case of the petitioner is that the petitioner is the General Secretary of the 1st respondent union, known as the Nation's largest Unions as declared by Government of India having considerable workers as members who are employed in the Neyveli Lignite Corporation (NLC), which was established in 1956 as a corporate body. The company has spread over by 60 villages surrounding Neyveli. While so, the NLC has been increasing its productivity in producing lignite and the power, especially feeding all the southern states of India and it has earned more profit. Hence the Company has proposed to pay a dividend of 28% for 2011-12 which is more than 23% of the previous year. It is the further case of the petitioner that the total man power is 17,733 and about ten thousand contract labourers are working in the company and the petitioner's Union consists of 753 members under several categories and departments and a separate list of the the same is enclosed in the typed set filed along with this writ petition. The Government of India has declared 5% disinvestment in NLC which would be sold to private entrepreneurs which means the Government of India has paved the way of privatization of NLC which is a profit making NAVARATNA company extending huge wealth in the form of lignite and power to the country. However the said privatization of NLC was opposed by all the 16 trade unions representing the employees and the other associations, has started the agitation programme from 25.07.2013 onwards, by holding gate meets, wearing protest badges, Dharnas, Hunger strike, etc., and all the political parties are protesting against the decision of Government of India. However, neither the Management nor Government of India are coming forward to concede the demand of the Unions and followed by this, all the trade unions had decided to go on indefinite strike from, 10PM of 3rd July 2013, Immediately the NLC Management has issued an order dated 24.06.2013, stating that explanation regarding the earlier participation in the nationwide strike held on February 20 and 21 of 2013 is not satisfactory and hence, they are intended to deduct 8 days wage on their salary payable on June and July 2013, however they had not paid with those two day wages into month of April salary upon the principles of "No Work, No Pay". There had been no notice or any enquiry before the deduction of two days salary and now for the second time the above notices are issued to the workers/petitioners. Challenging the same, the present petition is filed.

3.Learned counsel for the petitioner submitted that the Show cause notice issued by the 3rd respondent refers to sub clause-46 read with clause 44 of Standing Orders of the Employees Contract Rule. However the clause will not be applicable to the petitioner's union, which is not coming under the misconduct falling under the NLC standing orders. Hence the decision taken by the respondents is null and void. Hence, he prays this Court to allow the petition with the above said prayer.

4.Per contra, learned standing counsel appearing for the respondents submitted that as per the rules and provisions, actions were initiated against the petitioners who participated in the strike event and even the petitioners have a right to challenge the order. Without challenging the order, they had filed the writ which is an unsustainable one, therefore the prayer made in the petition is not maintainable and accordingly, it is liable to be dismissed.

5.This Court heard the submission made by either side learned counsel and also perused the material available on record.

6.The facts in the present case is not disputed one. Admittedly, the petitioner and the union members went on strike and agitation. On perusal of the affidavit, it reveals that on 20.02.2013 and 21.02.2013, they went on strike for which they were issued with a show cause notice for taking decision to cut 8 days wages from June and July months in 2013. However prior to that the respondent has cut two days salary from the salary of the members of the petitioner Association for having participated in the strike. Hence without challenging the earlier order was passed by the respondent, the Petitioner has come with the above Writ Petition and it is not sufficient to grant the relief as sought for and the stand taken by the petitioner cannot be entertained. Hence the prayer made in the petition is not maintainable one. Hence I am not inclined to grant the relief as sought for by the petitioner, however liberty is granted to the petitioner to work out its remedy in the manner known to law, after taking any decision.

7.In such view of the above backdrop, this Petition is dismissed on devoid of merits. There shall be no order as to costs. The petitioner is at liberty to work out his remedy in the manner known to law. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

jrs

To

- 1.The Government of India,
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- +1 CC to M/S.G.B.Saravanabhavan, Advocate sr 37696.

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SSV(CO)
SP(31/12/2020)