

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 06.08.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. No. 28397 of 2013

and

M.P.NOs.1 & 2 of 2013 and 1 of 2014

1.C.Kannan,
2.A.Velsamy
3.S.Esthar Ponnammal
4.M.Ponnumani
5.S.BalaGuruNathan ...Petitioners

- Vs -

1. The General Manager (TN) Region,
Food Corporation of India,
The Regional Officer, No.8, Mayor Sathiyamoorthy Road,
Chennai 600 031.
2. The Area Manager,
Food Corporation of India,
District Office,
Tuticorin.
3. The Area Manager,
Food Corporation of India,
District Office, Coimbatore

...Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified Mandamus, calling for the records pertaining to the 1st respondent's impugned order vide his proceedings NO.IR(L)/P&T/DPS/RO/2011-12 dated 28.08.2013 and the 2nd respondent's impugned proceedings No.S&C/32(6)/DPS/2011-2012 dated 28.08.2013 to quash the same and consequently direct the 1st and 2nd respondents not to transfer the petitioners from Tuticorin to Coimbatore Depot.

For Petitioner : No Appearance
For Respondents : Mr. M.Imthias

ORDER

This writ petition has been filed by the petitioner to call for the records pertaining to the 1st respondent's impugned order vide his proceedings NO.IR(L)/P&T/DPS/RO/2011-12 dated 28.08.2013 and the 2nd respondent's impugned proceedings No.S&C/32(6)/DPS/2011-2012 dated 28.08.2013 to quash the same and consequently direct the 1st and 2nd respondents not to transfer the petitioners from Tuticorin to Coimbatore Depot.

2. The case of the petitioners is that since 1996, the petitioners are working as ancillary labourer absorbed as employees of Food Corporation of India, under direct payment system, under the direct control of 2nd respondent herein. The petitioners are manual labourers without any basic qualification and settled in and around the villages of Tuticorin District. The grievance of the petitioners is that the petitioners are last grade servants, who are doing sweeping and collection of the pilferage of food grains and fumigation of stock and also helping in the loading and unloading in the Depot. Whiles, the impugned order dated 28.08.2013 has been passed by the 1st respondent and referred by the 2nd respondent, the last grade servants are sought to be transferred from Tuticorin District to Coimbatore District of the respondent Food Corporation of India. Immediately the petitioners made a representation on 31.08.2013 to the 2nd respondent, and the representation has not been considered till date. Hence the petitioners filed this Writ Petition before this Court, with the above said prayer, for their remedies.

3. On perusal of the docket sheet, it reveals that after getting the interim order in favour of the petitioners, no one appeared on behalf of the petitioners, though it was listed on 18.03.2015 and 06.08.2020. When the case is taken up for hearing today, none appeared on behalf of the petitioners. In the above circumstances, this Court is inclined to consider and dispose the case on merits.

4. Mr. M. Imthias, learned counsel appearing for respondents submitted that in view of the interim order granted by this Court, the transfer of the petitioners have not been effected and the said transfer order was stayed as it was passed in the middle of the academic year. However during the pendency of the writ petition, the 1st petitioner died and the 3rd and 4th petitioners retired from service and only the 2nd and 5th petitioners are serving. It is submitted that since seven years have passed subsequent to the filing of the present petition, this Court may close the writ petition by giving liberty to the respondents to pass orders in accordance with law.

5.Considering the facts and circumstances of the case, the petitioners, being last grade servants, who were transferred from Tuticorin to Coimbatore, their transfer orders were stayed as they were transferred in the middle of the academic year, considering that the petitioners are last grade servants and the financial crisis that they would be put into in case of their transfer. The interim was passed as early as on 10.10.2013. Almost 7 have passed and some of the petitioners have retired and one petitioner has since passed away. Therefore, it would not be in the interest of either parties to keep the petition pending on the file of this Court.

6. In the above circumstances, this writ petition is closed with a direction to the 2nd and 5th petitioner to make a fresh representation to the respondents for continuance of their service in Tuticorin, within a period of four weeks from the date of receipt of a copy of this order and on such representation being made, the 1st respondent is directed to consider the same and pass orders in accordance with law within a period of three months thereafter. Interim order granted by this Court shall continue till then.

7.With the above direction, this Writ Petition is disposed of. Consequently, connect miscellaneous petitions viz., M.P.Nos.1 of 2013 and 1 of 2014 are closed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

jrs

To

1. The General Manager (TN) Region,
Food Corporation of India,
The Regional Officer, No.8,
Mayor Sathiyamoorthy Road,
Chennai 600 031.

W.P. NO.28397 OF 2013

LC(CO)
KKV/19/12/2020