

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2020

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THE HON'BLE MR. JUSTICE R.SURESH KUMAR

W.P. No.11392 of 2020
and
W.M.P. No.13904 of 2020

Chennai Yetrumathi Valaga Uzhiyargal
Matrum Pothu Thozhilalar Sangam
Rep. by its President,
No.15, Kannan Street,
Kadaperi, Tambaram,
Chennai 45.

... Petitioner

-vs-

1.Government of Tamilnadu,
Rep. by its Addl. Chief Secretary,
Labour and Employment Department,
Fort St. George, Chennai - 9.

2.The Commissioner of Labour,
Tamilnadu Labour Welfare Building,
DMS Campus,
Teynampet, Chennai - 6.

3.The Deputy Commissioner of Labour
(Conciliation-II)
Kuralagam, Chennai 104.

4.The Management of Ramanasekhar Steels Ltd.,
Rep. by its Managing Director,
Poneeri High Road,
Elanthan Cherry
Manali New Town,
Chennai 600 103.

5.Mr.A.Sureshkumar,
Director,
Ramanasekhar Steels Ltd.,
Poneeri high Road,
Elanthan Cherry,
Manali New Town,
Chennai 600 103.

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6.M/s.Sun Mutiara Engineering Pvt. Ltd.,
E2, Sidco Industrial Estate,
K.Pudur, Madurai 629 007.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 3rd respondent to conclude the conciliation proceedings pertaining to the disputes relating to lay off and non-payment of salary in Na.Ka.Nos.A/274/20 and 280/20, within a specified time, so as to bring an amicable settlement on the dispute and to submit failure report to the 1st respondent/Government, if there is no possibility for any settlement; directing the 1st respondent to refer the above disputes for adjudication to the Labour Court/Industrial Tribunal, based on the failure report to be submitted by the 3rd respondent; directing the respondents 4 to 6 to maintain the status quo and not to alter the conditions of service of the members of the petitioner union numbering 57 whose names are given in the typed set, adversely in any manner till the disputes of either settled or adjudicated and directing the 1st respondent to initiate criminal prosecution against the respondents 4 and 5 for non-implementation and breach of the settlement dated 11.06.2018 and for their failure to provide wage revision, for the failure to pay bonus and for their failure to extend various other benefits and facilities, as per Section 29 and 25(U) read with Section 32 and 34 of the I.D.Act either by moving/filing a complaint on their own or by authorising any official or authority or the petitioner union.

For Petitioner : Mr.V.Ajay Khose
For Respondents : Mr.Lalitha, (For R1 to R3)
Government Advocate

सत्यमेव जयते
O R D E R

The Prayer sought for in this Writ Petition is for issuance of a Writ of Mandamus, directing the 3rd respondent to conclude the conciliation proceedings pertaining to the disputes relating to lay off and non-payment of salary in Na.Ka.Nos.A/274/20 and 280/20, within a specified time, so as to bring an amicable settlement on the dispute and to submit failure report to the 1st respondent/Government, if there is no possibility for any settlement; directing the 1st respondent to refer the above disputes for adjudication to the Labour Court/Industrial Tribunal, based on the failure report to be submitted by the 3rd respondent; directing the respondents 4 to 6 to maintain the

status quo and not to alter the conditions of service of the members of the petitioner union numbering 57 whose names are given in the typed set, adversely in any manner till the disputes are either settled or adjudicated and directing the 1st respondent to initiate criminal prosecution against the respondents 4 and 5 for non-implementation and breach of the settlement dated 11.06.2018 and for their failure to provide wage revision, for the failure to pay bonus and for their failure to extend various other benefits and facilities, as per Section 29 and 25(U) read with Section 32 and 34 of the I.D.Act either by moving/filing a complaint on their own or by authorising any official or authority or the petitioner union.

2.This Writ Petition had come up for hearing several times earlier on occasions. On 08.10.2020, 16.10.2020 and 29.10.2020 this Writ Petition was heard, arguments were advanced for some time by the learned counsel appearing for both sides. Accordingly, when the case came up for hearing last week on 02.11.2020, after hearing the arguments of the learned respective counsel appearing for the parties, this Court passed a detailed interim order to the following effect:

"11. In that view of the matter and by taking into account the totality of the situation where third party goods are admittedly lying in the factory or godown of the fourth respondent management and if those goods are kept in the premises for longer time, it will get rusted and the value of the goods would get diminished, therefore in order to save the goods, this Court wants to make an interim arrangement and accordingly the following interim order is passed.

(a) The fourth respondent Management shall deposit a sum of Rs.2 Crores (Rupees Two Crores only) in the Writ Petition Account ie., W.P.No.11392 of 2020 on the file of this Court within a period of three weeks from the date of receipt of a copy of this order, and

(b)Execute a Bank Guarantee for a sum of Rs.2 Crores (Rupees Two Crores only) from any Nationalised Bank within the aforesaid time.

(c)If both the aforesaid conditions are complied with ie., deposit of Rs.2 Crores and executing bank guarantee for Rs.2 Crores, the fourth respondent shall be at liberty to remove the third party goods which have already been identified by a team of Police officials, who already visited the factory / godown of the fourth respondent and gave a report to this Court.

(d) It is made clear that until the said deposit is made as well as the Bank Guarantee is executed by the fourth respondent for the aforesaid sum (Rs.2+2 = Rs.4 Crores), the fourth respondent shall not be permitted to remove the third party goods.

(e) It is further made clear that once the fourth respondent deposit the amount as well as execute the Bank Guarantee as indicated above, on receipt of the proof, the fourth respondent can be permitted to remove the third party goods. In this regard, an Advocate Commissioner can be appointed to execute this order. Accordingly, Mr.P.Mahadevan, Advocate, having office at 8/18, Murugesan Street, Kodambakkam, Chennai 600 024, Mobile No.9382706966 is appointed as Advocate Commissioner.

12. Since the learned Senior Counsel appearing for the fourth respondent and the learned counsel for the petitioner Union submit that it will take at least four days to complete the job as indicated above (Removal of 3rd party goods), the Advocate Commissioner's task will be there for four days and thereafter he shall file a report. Therefore, the Advocate Commissioner shall be paid an initial remuneration of Rs.1,00,000/- (Rupees One Lakh only) by the 4th respondent Management and he shall be entitled for additional remuneration on filing the compliance report.

13. The Inspector of Police, M6 Manali Police Station is hereby directed to give adequate / necessary police protection for the smooth execution of this order, as per the request of the Advocate Commissioner."

3. Accordingly, this Writ Petition has come up today for further hearing. However, today when the case is taken up for hearing, Mr.V.Ajay Khose, learned counsel appearing for the petitioner/employees' Union has submitted that, before the Joint Commissioner Labour II, Chennai 6, where the conciliation was pending between the parties, after due deliberations, an agreement was reached between the petitioner'/Employees Union and the respondent management. The said agreement has been reduced in writing and has been signed by both sides within the meaning of Section 12(3) of the Industrial Disputes Act 1947. Accordingly, all the issues raised by the employees side were conciliated and resolved in terms of the said 12(3) settlement dated 18.11.2020. The learned counsel for the petitioner has also filed a copy of the 12(3) settlement dated 18.11.2020 reached and signed by both sides. By relying upon the said 12 (3) settlement dated 18.11.2020, learned counsel appearing for the petitioner would request that, in terms of the settlement

and by recording the same, this Court can dispose of this Writ Petition. I have gone through the content of the 12(3) settlement dated 18.11.2020 where the employer as well as employee have agreed upon mutually to settle all the issues between them amicably and accordingly, the settlement was reached between the parties under Section 12(3) of the Industrial Disputes Act, 1947.

4. In view of the said settlement reached between the parties, this Court feel that, no further adjudication is required in this Writ Petition.

5. Accordingly, this Writ Petition is disposed of by recording the terms of the 12(3) settlement dated 18.11.2020 reached between the parties. Consequently, the earlier interim orders passed by this Court including the one dated 02.11.2020 are hereby vacated. The Writ Petition is disposed of accordingly. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar (CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Addl. Chief Secretary,
Government of Tamilnadu,
Labour and Employment Department,
Fort St. George, Chennai - 9.

2. The Commissioner of Labour,
Tamilnadu Labour Welfare Building,
DMS Campus,
Teynampet, Chennai - 6.

3. The Deputy Commissioner of Labour
(Conciliation-II)
Kuralagam, Chennai 104.

+1cc to The Government Pleader, SR38448

W.P. No.11392 of 2020
and
W.M.P. No.13904 of 2020

CO (PP)
BDL/21/01/2021