



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 27.01.2020
CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)No.5934 of 2014
and
M.P(MD)No.1 of 2014

Madurai Purnanagar Mavatta Kattida Thozhilalar Sangam,
(Registration No.996/MDU),
Rep. by its General Secretary,
V.Pitchai Rajan,
Having Office at 27F, Sarvodaya Road,
Madurai-625 010.

... Petitioner

vs.

The Labour Officer,
Social Security Scheme,
Madurai District, Madurai.

... Respondent

Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the respondent in Na.Ka.No.199/13-14 dated 27.03.2014 and quash the same and direct the respondent to accept the application for enrollment, renewal and disbursement of benefits to the petitioner association's members.

For Petitioner : Mr.A.Haja Mohideen
For Respondent : Mr.S.Dhayalan
Government Advocate

ORDER

This writ petition has been filed for issuance of a Writ of Certiorarified Mandamus, to call for the records of the respondent in Na.Ka.No.199/13-14 dated 27.03.2014 and quash the same and direct the respondent to accept the application for enrollment, renewal and disbursement of benefits to the petitioner association's members.

2.Learned counsel for the petitioner would state that the petitioner is a Trade Union registered under the Trade Unions Act with Registration No.996/MDU and totally 1215 construction workers in Madurai Rural District are the members of the petitioner's union. The Government with a view to uplift the workers has mooted several enactments in order to protect and safeguard as well as to provide them monetary support for the welfare of the construction workers and for their life standards. The said benefits are available only through the Trade Union and most of the workers have become the



members of the Trade Union only to get government benefits. In the said circumstances, the petitioner's union recommended to the respondent one Ayyar's (registration No.22BEND100193) renewal application submitted on 13.05.2013 and the same has been renewed by the respondent on 27.05.2013, but later finding that the renewal application was submitted after the death of the said Ayyar by suppressing the real fact, the respondent issued a show cause notice to the petitioner's union on 11.02.2014 vide Na.Ka.No.199/13 calling for explanation within a period of 7 days as to why the registration of the petitioner's union shall not be cancelled.

3.It is further submitted that thereafter, the petitioner's union submitted a request letter to the respondent to furnish the alleged documents namely, member identity card, renewal application and the application for the death benefit and to whom the identity card was issued after renewal etc., in order to give proper explanation to the show cause notice. Though the respondent received the above letter, failed to furnish the required documents as sought for by the petitioner's union and without supplying the documents and without giving any opportunity to the petitioner's union, the respondent passed the impugned order dated 27.03.2014, suspending the functions of the petitioner trade union in respect of registration, renewal and submitting claim application. According to the petitioner, the respondent has no authority to pass the impugned order either under the Tamil Nadu Manual Workers (Construction Workers) Welfare Scheme, 1994, or under any other Act to suspend the petitioner's union's functions and without giving any opportunity to the petitioner's union, the respondent passed the impugned order affecting the fundamental rights guaranteed to the union members under Article 19(1)(c) and 21 of the Constitution. Thus, he would pray for setting aside the impugned order and to allow the writ petition.

4.The respondent has filed counter affidavit. Learned Government Advocate appearing for the respondent would contend that the petitioner's union is indulging in malpractice and cheated the Government in order to receive the Government benefits fraudulently. The petitioner's union recommended one Ayyar's application for renewal of registration and the same has been renewed by the respondent on 27.05.2013. Later on, the respondent found that the said Ayyar died on 13.05.2013 and knowing fully well that the said Ayyar died on 13.05.2013, the petitioner's union had recommended for renewal of registration by fabricating the signature of Ayyar and the respondent had renewed the same on 27.05.2013 without knowing the real facts. After knowing the said malpractice, the respondent issued a show cause notice to the petitioner on 11.02.2014 calling for explanation, but the petitioner did not give any explanation to the show cause notice and therefore the impugned order has been passed after giving opportunity to the petitioner. Thus, he would pray that the interference of this Court is not necessary.



5. Heard the learned counsel for the petitioner as well as the learned Government Advocate for the respondent.

6. The original records were directed to be produced before this Court and the same has been produced. Perusal of record shows that the death of the said Ayyar was on 13.05.2013 and the renewal has been made on 27.05.2013. The records show that there are various dates in which renewal application is said to have been received and the same has been endorsed in the bottom of every renewal form. All the forms have been produced before this Court. It has been stated by the learned Government Advocate that all the renewal applications have been received on 27.05.2013 and only in order to get the death benefit as per the scheme, the renewal application of Ayyar has been recommended by the petitioner's union after the death of the said Ayyar. But, perusal of record shows that in all the applications though the seal is dated 27.05.2013, receiving date is different in the different application forms and there is no receiving date in the application of Ayyar submitted by the petitioner's union. There is no dispute that the renewal has been made on 27.05.2013. All the applications have been renewed on the same date and the Register has also been brought before this Court, where an entry has been made on 27.05.2013 for various applications. So, there is no document to show that the renewal application of Ayyar submitted by the petitioner was received by the respondent only on 27.05.2013, whereas, it is the renewal date on which the seal has been made. The seal has been put up on the applications where renewal of registration is granted.

7. Learned Government Advocate for the respondent would state that only to get the death certificate, application was made in 2013 and no application was received for death benefit in 2013 and after coming to know that the death of the said Ayyar was prior to the renewal application, the petitioner did not apply for the death benefit. The show cause notice has been issued in 2014 and anticipating that the respondent would issue show cause notice in 2014, it cannot be said that the petitioner did not apply for the death benefit. Looking into the entire records, it can be only construed that renewal applications were given on different dates, whereas renewal has been made on the same day and seal has been put up. The learned counsel for the petitioner would state that though they had asked for the documents, none of the documents were produced by the respondent to verify how applications were received. Whereas, the respondent would contend that for the request submitted by the petitioner, notice was sent to the petitioner calling him to peruse the records. In my opinion, the above contention of the respondent cannot be accepted, because, there is no acknowledgment for sending notice to the petitioner to peruse the records. Learned counsel for the petitioner would undertake that in future, the petitioner will be very careful in scrutinising the applications and

<https://hccs.myservices.gov.in/toservices>



8. In view of the above discussion, I am inclined to interfere with the impugned order. Accordingly, the order passed by the respondent in Na.Ka.No.199/13-14 dated 27.03.2014 is quashed and the respondent is directed to accept the applications from the petitioner's union for enrollment, renewal and disbursement of benefits to its members.

With the above direction, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

The Labour Officer,
Social Security Scheme,
Madurai District, Madurai.

+1 CC to SPL.GP (SR-3345[F] dated 28/01/2020)

ORDER MADE IN

W.P(MD)No.5934 of 2014

DATED : 27.01.2019

MK (24.02.2020) 4P 3C