



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE S. VAIDYANATHAN

W.P.NO.958 OF 2021

AND WMP.NO.1040 OF 2021

M/s.Pondicherry Oxy-Acetylene Private Limited
Rep.by its Managing Director,
R.S.No.97/7, Pondy - Villupuram Road,
Thirubuvanai, Puducherry - 605 107.

... Petitioner

..Vs..

1. All India United Trade Union Centre,
rep.by its State Secretary,
No.14, Solai Gounder Street,
Ariyankuppam, Puducherry - 605 007.

2. Secretary (Labour) cum Commissioner of Labour
Labour Department, Government of Puducherry
2nd floor, Labour Complex,
Gandhi Nagar, Puducherry - 605 009.

... Respondents

Prayer:- This Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for records and quashing the order dated 29.12.2020 bearing No.5223/LAB/AIL/T/2020/2016 passed by the 2nd respondent.

For Petitioner : Mr.M.Nirmal Kumar

For Respondents: Mr. Prakash Adiyapatham for R1
Ms.G.Djearany
Govt. Advocate (Pondy) for R2

ORDER

This writ petition has been filed, seeking to quash the order dated 29.12.2020 bearing No.5223/LAB/AIL/T/2020/2016 passed by the 2nd respondent, by which the Workman was directed to be reinstated in service.



2. The petitioner Management has questioned the impugned order, vide which, the employee was ordered to be reinstated in service by R2. When the matter was taken up for hearing on the last occasion, this Court posed a question to the learned Government Advocate (P) as to how a Conciliation Officer can order for reinstatement, instead of submitting a failure report. Today, it is represented by the learned Government Advocate (P) for R2 that the impugned order dated 29.12.2020 was withdrawn and the Conciliation Officer submitted a failure report.

3. According to the Workman, his date of birth is 26.03.1962 and he attained the age of superannuation on completion of 58 years on 26.03.2020. It is submitted by the Workman that there are employees, who are working even beyond the age of 60 and therefore, it amounts to discrimination and that he must be allowed to continue. He further submitted that there are no certified Standing Orders.

4. It is pertinent to mention here that even assuming that there are no certified Standing Orders, the Model Standing Orders will apply in the case of the petitioner and that being the case, the Model Standing Orders prescribe the age of retirement as 58. The question as to whether the petitioner, as a matter of right, can demand continuation of his employment beyond 58 years, has to be decided by the appropriate Labour Court / Tribunal and it is open to him to agitate the same before the Labour Court / Tribunal.

5. With the above observation, the Writ petition is disposed of. No costs. Consequently connected miscellaneous petition is also closed.

-s/d-

Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

dpq

To

1. All India United Trade Union Centre,
rep.by its State Secretary,
No.14, Solai Gounder Street,
Ariyankuppam, Puducherry - 605 007.



2. Secretary (Labour) cum Commissioner of Labour
Labour Department, Government of Puducherry
2nd floor, Labour Complex,
Gandhi Nagar, Puducherry - 605 009.

WEB COPY

+2cc to Mr.M.Nirmal Kumar, Advocate, SR.No.26543
+1cc to Government Pleader, Puducherry SR.No.26983

W.P.No.958 of 2021
and WMP.No.1040 of 2021

CP(CO)
PM(09/09/2021)