



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.48797 and 48798 of 2006 and
M.P.Nos.1 & 1 of 2006

M/s.Pullicar Mills Ltd.,
Rep. by the Managing Director,
107, Sankari Main Road,
Seetharamapalayam, Tiruchengodu,
Namakkal District. Petitioner in both Petitions

vs.

1. The Presiding Officer,
The Labour Court,
Salem. ...Ist Respondent in both Petitions

2.Thiru.K.Palaniappan
...2nd Respondent in W.P.No.48797 of 2006

3.A.Dhavamanickam
...2nd Respondent in W.P.No.48798 of 2006

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for the records of the 1st Respondent in I.D.Nos.168 and 106 of 2001 dated 02.09.2005 and quash the same as illegal.

For Petitioner
in both Petitions : Mr.S.Rajesh
For Mr.S.Sivanandam
For R1 : Court
For Workmen (R2 & R3
in both Petitions : Mr.K.V.Shanmuganathan

C O M M O N O R D E R

These Writ Petitions have been filed, challenging the Award of the 1st Respondent dated 02.09.2005, passed in I.D.Nos.168 and 106 of 2001, by which, the claim made by the Workmen was allowed with 50% of benefits of continuation of service, backwages, etc. from 01.01.1992 to the end of 1998.



2. It is the case of the Petitioner/Management that the Workmen (2nd Respondent in the respective Writ Petitions) were appointed in their Mill and their year of birth was entered as 1933. Since they attained 58 years of age as on 1991, they were permitted to retire on 01.01.1992 and they agreed for retirement from service and received all the benefits, including gratuity. It is further case of the Management that after a lapse of nine years, Workmen initiated proceedings under the provisions of the Industrial Disputes Act, claiming that they were entitled to continue service till 1998 and 1993 respectively. The Labour Court, after considering oral and documentary evidence, concluded that there was no bar for the Workmen to continue till 1998 and 1995.

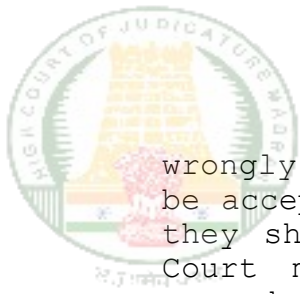
3. According to the Management, there was no reason assigned by the Workmen in raising a Dispute belatedly, which was not properly considered by the Labour Court and the Workmen, having accepted the retirement and gratuity without any demur, cannot question the same in the year 2000 with delay. Therefore, it was prayed that the award of the Labour Court is liable to be set aside.

4. Learned counsel for the Workmen contended that Workmen should have been retired only in 1998 and 1993 respectively and retiring them taking into account the date of birth as 1937 and depriving service benefits for 2 to 5 years is bad in the eye of law, which would amount to non-employment.

5. Per contra, learned counsel for the Management repudiated that the retirement notice was issued to the Workmen on 14.12.1991, informing them to retire on 01.01.1992 and they had also accepted all the terminal benefits. Thereafter, after a period of 10 years, Industrial Dispute was raised by them and the Labour Court has erroneously passed an award, holding that the delay in raising a Dispute may not be fatal and the same should be taken into account for the purpose of moulding the relief. Thus, the Labour Court erred in fixing a date of birth, totally ignoring the delay aspect raised on the side of the Management.

6. Heard the learned counsel on either side and perused the material documents available on record.

7. It is not in dispute that the Workmen had duly received the intimation about the their retirement in the month of January, 1992 and after accepting all the terminal benefits, raised a Dispute after a decade. The date of birth was entered in the service records maintained by the Management based on the information furnished by the Workmen. That being the case, the hue and cry made by the Workmen that their date of birth was



wrongly entered and were ousted from service prematurely cannot be accepted. If the Workmen wanted to alter their date of birth, they should have approached the Civil Court. Even if the Civil Court mutates the date of birth, the entry in the service records should be taken for the purpose of counting the years of service. In the considered opinion of this Court, the claim of the Workmen, who had accepted all the terminal benefits without making any endorsement that they are accepting the same under protest and thereafter, raising a Dispute after a lapse of 10 years, is not sustainable. Hence, I find that the award of the Labour Court is perverse and is liable to be interfered with.

8. In the result, these Writ Petitions are allowed and the award of the Labour Court dated 02.09.2005, passed by the 1st Respondent in I.D.Nos.168 and 106 of 2001 is hereby set aside. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS IV)

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Sub Assistant Registrar

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To:

The Presiding Officer,
The Labour Court,
Salem.

W.P.Nos.48797 and 48798 of 2006

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