WMP NO.22493 OF 2019
IN WP NO.6872 OF 2001

M.GOVINDARAJ, J.

This Court in WP No.6872 of 2001 dated 24.08.2005 declared the employees of the Chennai Port Trust Industrial Employees Cooperative Canteen Ltd., to be and shall be treated as direct employees of the Chennai Port Trust and the temporary employees shall be absorbed and made permanent with effect from the date on which they are entitled to be delared as permanent in accordance with the rules and regulations of the Port Trust. This order was challenged upto the level of the Hon'ble Supreme Court and ultimately, the order of the learned Single Judge of this Court was confirmed. Accordingly, 72 employees, as mentioned in the typed set filed in the above writ petition were made regular and declared as permanent employees. Thereafter, it appears that another batch of 33 employees filed another writ petition and those employees were also made permanent with approval of the Board of the Chennai Port Trust.

2.During this process, the computation of earned leave between the employees of the Cooperative Canteen under the Cooperative Societies Act and the employees who were made permanent as employees of the Chennai Port Trust had differences. Therefore, a clarification is sought as to how to treat this leave period.

3.It is noted that the Canteen employees on their retirement are receiving the whole EPF contribution made by them @ 12% of the basic pay + DA + CCA – SD and also from the similar 12% contribution made by the Port Trust. The Canteen employees are receiving 3.67% in one lump sum and the remaining 8.33% is kept by the EPF Authorities for paying the applicable pension every month to them. Since the employees are made permanent and absorbed by Chennai Port Trust, the employees claimed that they are entitled to pension payable by the Chennai Port Trust and they do not want EPF pension.

4.On this aspect also, the learned Additional Solicitor General appearing for the Chennai Port Trust would express some practical difficulty in converting the pension as well as recovering the money from them at this stage. In many cases, employees have received lumpsum payment and after their demise, family pension is also being regularly paid. Therefore, it is practically very difficult to get conversion of payment of EPF pension into the pension payable to the Chennai Port Trust employees.

5.The learned counsel appearing for the employees Union would file a rejoinder wherein it is undertaken that the amount paid towards the lumpsum payment as well as remittance of employer's share and other payment made to the EPF Authorities can be adjusted from the money payable to the employees. They are willing to receive the pension payable by the Port Trust to its permanent employees and not EPF pension.

6.Since such an undertaking viz., to adjust all amounts which are recoverable from the employees who are receiving EPF pension is made, this Court is of the considered opinion that the respondent Port Trust can very well work out the modality of recovering the amount paid to the EPF authorities and other dues recoverable from the employees and convert it for a pension scheme under the Port Trust.

7.The learned Additional Solicitor General would also express certain practical difficulties in implementing the order after computing the differences and adjusting the money from the dues payable to the employees.

8.For that purpose, this Court is inclined to grant three months time from the date of receipt of a copy of this order for payment of the same. It is made clear that the position is no longer *res integra* and it has been clarified by the various judgments of this Court and therefore, there is no difficulty in treating all the Cooperative Canteen employees who are absorbed as permanent employees of Port Trust and to pay the pension as well as arrears of EL, etc., as payable to the employees of the Chennai Port Trust.

9.With this clarification, this miscellaneous petition is closed.

29.07.2021

TK

M.GOVINDARAJ, J.

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