



W.P.Nos.17229 & 28988 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :14.03.2022

CORAM

THE HON'BLE MR.JUSTICE M.S.RAMESH

W.P.Nos.17229 & 28988 of 2013

The General Manager,
Swedeshi Cotton Mills,
Pondicherry.

..Petitioner in both WPs.

Vs.

1.The Presiding Officer,
Labour Court,
Puducherry.

2.The President,
Swedeshi Panchalai Thozhilalar Urimai
Padukapu Sangam,
Pondicherry.

..Respondents in both

WPs.

Common Prayer: Writ Petitions filed Under Article 226 of the Constitution of India, praying to issue a writ of Certiorari, calling for the records of the first respondent relating to the award made in I.D.Nos.33 & 34 of 2008 dated 13.12.2012 and quash the same.

For Petitioner : Mr.R.Parthiban

For R1 : Court

For R2 : Mr.M.A.Abdul Wahab for
M/s.K.V.Subramanian
..in both WPs.



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COMMON ORDER

The second respondent herein, which is a Trade Union, had entered into a Settlement under Section 18(1) of the Industrial Disputes Act, 1947, whereby it was agreed inter-alia that the Mill would be run for 24 hours, with effect from 26.05.1993 and that the casual labourers employed in the Mill would be regularized. It was further agreed in the Settlement that no future dispute would be raised on the terms of this Settlement in future.

2. In this background, the Trade Union has raised the disputes in I.D.Nos. 33 & 34 of 2008 before the Labour Court, Pondicherry, claiming correction of the date of joining of 25 workmen in I.D.No.33 of 2008 and 17 workmen in I.D.No.34 of 2008 from 26.05.1993 to their original respective date of appointment in their service records. In these disputes, the President of the Trade Union, while deposing as a witness, had ratified the terms of Settlement by stating that the date of their joining was agreed to be fixed at 26.05.1993 and that the workmen have agreed not to raise any dispute in this regard. However, the Labour Court has found that this 18(1) Settlement dated 17.05.1993 was unilaterally terminated by the Management and that



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they had stopped 24 hours continuous operation of the Mill. With these findings, the Labour Court had allowed the Industrial Disputes and directed the Management to correct the date of entry of the 25 workmen in I.D.No.33 of 2008 and 17 workmen in I.D.No.34 of 2008, as per the dates given in the ESI Register.

3. These awards seem to be on a misconception of facts and law. Firstly, the finding that the Management had unilaterally cancelled the Awards, is not backed by any evidence. Even otherwise, as per the provisions of the Industrial Disputes Act, the settlement entered under Section 18(1) cannot be unilaterally cancelled, unless it is superseded by a subsequent settlement, either under Section 18(1) or 12(3) of the Act. Secondly, the claim that a dispute can be raised if the Mill fails to continue with 24 hours operation, is not found in the terms of the settlement. This aspect has been admitted by the President of the Trade Union in his cross-examination before the Labour Court. Thus, the two fundamental reasons on which the Awards came to be passed by the Labour Court, seem to be on a misconception of fact and law and accordingly, the Awards cannot be



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sustained.

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4. The learned counsel appearing for the Trade Union submits that there is no specific mention about the date of entry into service in the terms of the settlement. I am not in agreement with such a submission, as earlier pointed out, the President of Trade Union himself has deposed that the terms of the settlement indicates that the date of entry of these workmen will be from 26.05.1993 and that they will not raise any dispute in connection with this date of entry. Having deposed so, it is not now open to the same President to question this aspect.

5. In the result, the impugned Awards dated 13.12.2012 on the file of the Labour Court, Pondicherry, are quashed and these Writ Petitions stand allowed. No costs.

Internet:Yes

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Index:Yes/No

Speaking/Non-speaking order

Pns

To

1.The Presiding Officer,



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Labour Court,
Puducherry.

2.The President,
Swedeshi Panchalai Thozhilalar Urimai
Padukapu Sangam,
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M.S.RAMESH, J.

Pns



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