



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.04.2022

Coram:

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.14955 of 2010

and

M.P.No.2 of 2010

1. C.Narayanan
2. R.Solaimuthu
2. K.A.Murugesan
4. K.Nehru
5. K.Pereiyasamy
6. S.Sethurama Subramanian

.. Petitioners

Vs.

1. The State of Tamil Nadu,
Rep. by the Secretary to Government,
Industries Department,
Fort St.George, Chennai-600 009.
2. The Commissioner of Sugar,
474, Anna Salai,
Nandanam, Chennai-600 035.
3. The Special Officer,
Kallakurichi Co-operative Sugar Mills Ltd.,
Moongilthuraipattu,
Villupuram District.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for the records in the impugned Circular R.C.No.941/S&L/2/99, dated 19.10.2000 on the file of the second respondent and quash Clause-F of the impugned circular.

For petitioner : Mr.C.Tickeamber
for M/s.G.Rajan

For respondents : Mrs.E.Renganayaki,
Addl.G.P. for RR-1 & 2
Mrs.Malarvizhi Udayakumar for R-3



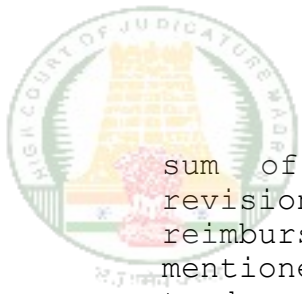
ORDER

The petitioners who are working as Cane Officers in the third respondent-Sugar Mills, have filed this Writ Petition challenging the Circular, dated 19.10.2000 issued by the second respondent, more particularly, Clause-F therein, whereby the method of grant of Medical Allowance to the employees of the Sugar Mills, was altered. Originally, the employees were entitled to a month's pay as Medical Allowance, irrespective of the fact as to whether there was any ailment or whether there was any production of bill or not. However, by virtue of Clause-F of the impugned Circular, the said Rule has been given a go-by and a new system is included, whereby two options were granted to the employees, i.e. they can either opt for a monthly reimbursement of Medical Allowance of Rs.50/- per month, which is subsequently increased to Rs.100/- per month, by G.O.(Ms). No.138, Industries (MIC.2) Department, dated 27.09.2010, or they are entitled for reimbursement subject to the maximum of one month's basic pay by producing the bills.

2. The learned counsel for the petitioners attacked the said Clause-F of the impugned Circular by stating that this new policy causes grave hardship to the employees. His second submission is that the same is done without following the principles of natural justice. His third submission is that, earlier, the very same Circular was challenged by the Tamil Nadu Co-operative and Public Sector Sugar Mills Agriculture Graduate Association in W.P.No.18899 of 2000 and by order dated 23.11.2009, the said Writ Petition was dismissed with liberty to the individuals to challenge the proceedings in case the service conditions are altered to their disadvantage. Therefore, the present Writ Petition is filed and hence, he would pray that the impugned Circular should be set aside and the original position of grant of one month's basic pay, be restored on pro-rata basis.

3. Per contra, the learned counsel appearing for the third respondent submitted that the grant of Medical Allowance either as one month's basic pay by default, or by way of reimbursement, is a matter of policy and the employer was very much within the right to change the rule position, considering the administrative exigencies. She would submit that the challenge is not made on any legal grounds so as to interfere with the impugned Circular.

4. The learned counsel for the third respondent further submitted that, as a matter of fact, in the year 2010, on par with the Government servants, the Medical Allowance was increased from Rs.50/- to Rs.100/-, and therefore, both the options are available to the employees. Without any claim whatsoever, if they give an option, they will be entitled to a



sum of Rs.100/- per month. Even otherwise, with the pay revision, it would be enough for the employees to claim reimbursement subject to the maximum of one month's basic pay as mentioned in the Circular. Merely because the petitioners prefer to have one month's basic pay without reimbursement, the same cannot be claimed as a matter of right. Therefore, the learned counsel for the third respondent prayed that the Writ Petition may be dismissed.

5. I have considered the rival submissions made on behalf of both sides and gone through the materials available on record and also the Government Order produced by the learned Additional Government Pleader appearing for the respondents 1 and 2.

6. As rightly pointed out by the learned Additional Government Pleader, the grant of Medical Allowance and the procedure or method thereof, are within the realm of the policy decision of the employer and in the absence of any violation as to any provision of law or the statutory Rules, the Circular cannot be interfered with by this Court.

7. The second contention of the learned counsel for the petitioners that the principles of natural justice are violated, cannot be countenanced, as this is in the realm of the Subordinate Legislation and therefore, there is no question of complying with the principles of natural justice.

8. The third ground of attack of the impugned Circular by the learned counsel for the petitioners is that, in the earlier round of litigation, liberty was granted by this Court to the individual employees to challenge the proceedings in case service conditions are altered to their disadvantage. Even though such a liberty has been granted, the conditions of service, if the petitioners are workman, within the definition of the Industrial Disputes Act, if altered without following the procedures prescribed under law, can be challenged by raising an 'industrial dispute'. For that, the petitioners have to prove that they come within the definition of "workman" and the impugned exercise, i.e. the challenge to the procedure of disbursement of the Medical Allowance, amounts to change in their condition of service and they should approach the appropriate forum, namely the Labour Court or the Industrial Tribunal, as the case may be. For that, the present challenge to the Circular cannot be the remedy.

9. Therefore, none of the grounds raised by the learned counsel for the petitioners, has merit, so as to interfere with the impugned Circular and grant the relief as prayed for in the Writ Petition.



WEB COPY

10. The Writ Petition fails and the same is accordingly dismissed. There shall be no order as to costs in the present Writ Petition. Consequently, M.P.No.2 of 2010 is closed.

Sd/-
Assistant Registrar

True Copy//

Sub Assistant Registrar

CS

To

1. The Secretary to Government,
State of Tamil Nadu,
Industries Department,
Fort St.George, Chennai-600 009.
2. The Commissioner of Sugar,
474, Anna Salai, Nandanam,
Chennai-600 035.
3. The Special Officer,
Kallakurichi Co-operative Sugar Mills Ltd.,
Moongilthuraipattu,
Villupuram District.

+1cc to Mrs.Malarvizhi Udayakumar, Advocate, S.R.No.25465
+1 c to the Government Pleader, Sr.25919

W.P.No.14955 of 2010

RSV[co]
NSK 04/05/2022