



W.P. No. 27497 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.09.2022

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

**W.P. No. 27497 of 2017
and
W.M.P. No. 29392 of 2017**

The Management of the Salem Co-operative Sugar Mills Ltd.,
(Sugar & Distillery Unit),
Mohanur – 637 015,
Namakkal District.

... Petitioner

-VS-

1. The Joint Director,
Industrial Safety and Health,
Salem.
2. K.Sudha
3. A.Vanitha
4. G.Boopathy
5. S.Pram Kumar
6. M.Periasamy
7. N.Thiagarajan
8. S.Sasikumar
9. K.Manokaran
10. K.Saravanan
11. A.Senthilkumar



W.P. No. 27497 of 2017

12. M.Krishnan

13. C.Ponnusamy
Respondents

...

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the records relating to the impugned order dated 01.06.2017 passed by the First Respondent herein in A. No. 3217 of 2014 and quash the same.

For Petitioner : Mr. R.Balaramesh

For Respondents : Mr. P.Balathandayutham,
Special Government Pleader (for R1)

Mr. V.S.Jagadeesan
(for R2 to R11 & R13)

No appearance (for R12)

ORDER

Heard Mr. R.Balaramesh, Learned Counsel for the Petitioner, Mr. P.Balathandayutham, Learned Special Government Pleader appearing for the First Respondent and Mr. V.S.Jagadeesan, Learned Counsel for the Second to Eleventh and Thirteenth Respondents and perused the materials placed on record, apart from the pleadings of the parties.



W.P. No. 27497 of 2017

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2. The Petitioner is a Co-operative Society governed by the provisions of the Tamil Nadu Co-operative Societies Act, 1983. The Second to Thirteenth Respondents had made application under Section 3(1) of the Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 (hereinafter referred to as 'the Permanent Status Act' for short) before the First Respondent claiming that they had been employed in the Sugar Mill of the Petitioner and were entitled to the benefit of conferment of permanent status on having completed 'continuous service' of 480 days in a period of 24 calendar months in that industrial establishment. The First Respondent by Order No. A.3217/2014 dated 01.06.2017 granted that benefit sought by the Second to Thirteenth Respondents, which is challenged in this Writ Petition.

3. Learned Counsel for the Petitioner contends that despite the objections raised by the Petitioner that its industrial establishment was of seasonal character and the number of days that the Second to Thirteenth Respondents had worked does not satisfy the minimum period of 480 days of continuous service in a period of 24 calendar months, the First Respondent has extended the benefit of conferment of permanent status to them.



W.P. No. 27497 of 2017

4. Learned Counsel for the Second to Eleventh and Thirteenth Respondents

submits that the Petitioner has been adopting unfair labour practices by employing persons in its Sugar Mill for long periods without regularizing their services and denying them of their legitimate rights and the consequential monetary emoluments and asserts that the impugned order has to be confirmed.

5. Having regard to the rival submissions made, it must be highlighted here that the beneficent provisions of the Permanent Status Act provides a statutory mechanism before the First Respondent to factually ascertain as to whether an employee has completed the continuous service of 480 days in a period of 24 calender months for extending the benefit of conferring permanent status to him and it is an essential condition that the the First Respondent, while exercising such power, has to be satisfied with reference to the evidence placed by the parties in that regard. It is borne out from the record that the Petitioner in the Counter filed before the First Respondent has specifically mentioned the number of days in a year that the Second to Thirteenth Respondents had attended the duty, which would obviously mean that the First Respondent ought to record whether the said period satisfies the prescribed duration for granting such benefit. If it was the case of the Second to Thirteenth Respondents that they had worked for longer periods than what has been admitted by the



W.P. No. 27497 of 2017

Petitioner, it was incumbent upon them to place evidence before the First Respondent in that regard. The First Respondent has not properly dealt with these crucial aspects of the matter, though an elaborate order has been passed. In such circumstances, it has become necessary to remit the matter back to the First Respondent for the limited purpose of ascertaining the satisfaction of the said condition for conferring permanent status on the Second to Thirteenth Respondents.

6. In that view of the matter, the impugned Order No. A.3217/2014 dated 01.06.2017 passed by the First Respondent is set aside and the same is restored to file and the shall be listed for next hearing on 31.10.2022 before the First Respondent, and the Petitioner and the Second to Thirteenth Respondent shall appear in person or through their authorized representative. If the First Respondent is not able then to take up the matter, the date to which it is adjourned shall be informed in the prescribed manner. It shall be ensured by the First Respondent that there is atleast one effective hearing every week showing progress of the case, that full opportunity of hearing is afforded to all parties concerned following the prescribed procedure in consonance with the principles of natural justice, that reasoned orders are passed with reference to the actual period for which the Second to Thirteenth Respondents had worked in order to



W.P. No. 27497 of 2017

be conferred with that benefit on merits and in accordance with law, that the decision taken is communicated to the concerned parties under written acknowledgment and that proof of such compliance is filed by 31.12.2022 before the Registrar (Judicial) of the Court.

In the result, the Writ Petition is disposed on the aforesaid terms. Consequently, the connected Miscellaneous Petition is closed. No costs.

02.09.2022

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Index: Yes/No

Note: Issue order copy by 14.10.2022.

To

The Joint Director,
Industrial Safety and Health,
Salem.

Copy to

The Registrar (Judicial),
Madras High Court,
Chennai – 600 104.



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W.P. No. 27497 of 2017

P.D. AUDIKESAVALU, J.

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W.P. No. 27497 of 2017

02.09.2022