



WEB COPY



W.P.No.754 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.09.2022

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

Writ Petition No.754 of 2017

&

W.M.P.No.786 of 2017

N.M.R.Employees Union
(Regn.No.910 NAT)
Tiruppathur Co-operative Sugar Mills
Kethandapatti
Vellore District - 635 815
Represented by its Secretary
M.Kumar

...Petitioner

-Vs-

1. The Government of Tamilnadu
Rep. by its Secretary to Government
Industries (Mic.2) Department
Secretariat
Chennai - 600 009

2. The Commissioner of Sugar
No.474, Anna Salai
Chennai - 600 035

3. The Managing Director
Tirupattur Co-op.Sugar Mills Ltd.,
No.TS-01
Kethandapatti - 635 815
Vellore District

...Respondents



W.P.No.754 of 2017

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents to implement the Award dated 29.12.2016 in I.D.No.7/2015 on the file of the Industrial Tribunal, Chennai - 140 and desist from making appointment of outsiders other than the members of the petitioner union in the vacant posts notified on 27.10.2016 or in any other vacant posts.

For Petitioner : Mr.J.Muthukumaran

For Respondents : Nr.S.balamurugan
Govt. Advocate for R1 & R2

Mr.R.Balaramesh for R3

ORDER

The relief sought for in the present writ petition is to direct the respondents to implement the award dated 29.12.2016 in I.D.No.7/2015 on the file of the Industrial Tribunal, Chennai - 140 and desists the respondents from making appointment of outsiders other than the members of the petitioner Union in the vacant posts notified on 27.10.2016 or in any other vacant posts.

2. The petitioner is N.M.R.Employees Union. A writ petition seeking regularization of services of the workmen cannot be entertained if filed by the Union. In the present case, the Union rightly approached



the Industrial Tribunal and obtained award in I.D.No.7/2015 and the present writ petition is filed thereafter to implement the award.

3. Regarding the implementation of the award passed by the Labour Court or Tribunal, Section 11-B of the Industrial Disputes Act contemplates that “*a Labour Court or a Tribunal shall have the power of a civil court to execute its own award as a decree of a civil court and also to execute any settlement as defined in clause (p) of section 2 as a decree*”.

4. In the present case, the award has been passed in favour of the Union. Thus, an execution petition is maintainable under Section 11-B of the Industrial Disputes Act and no writ is entertainable under Article 226 of the Constitution of India since there is an efficacious remedy contemplated under the Industrial Disputes Act for execution of its award by following the procedures as contemplated under the Code of Civil Procedure. When an efficacious remedy is contemplated under the Statute, the parties aggrieved are bound to approach the said forum before approaching the High Court by way of writ proceedings. In the present case, the award has been passed on 29.12.2016 and therefore, the



Union has to approach the Industrial Tribunal for the purpose of execution of its award in the manner known to law. Contrarily, the writ Court cannot adjudicate the issues regarding the reinstatement or regularization, as the case may be. In the present case, regularization as such sought for by the Union on behalf of its members cannot be adjudicated elaborately, which requires scrutinization of documents and ascertain the eligibility and other conditions stipulated for regularization. It is not as if High Court can issue a blanket direction to regularize the services of the employees based on the award which requires certain other consideration with reference to the documents which cannot be undertaken in a writ proceedings.

5. Thus, the petitioner is at liberty to approach the Industrial Tribunal for execution of its own award by filing an application. In the event of filing any such application, the period during which the writ petition was pending before the High Court is to be taken into consideration for the purpose of condoning the delay, if any and issues are to be adjudicated on merits, in accordance with law and as expeditiously as possible.

With the above direction, the writ petition stand disposed of. No



W.P.No.754 of 2017

costs.

19.09.2022

Index: Yes

Speaking order

gpa

To

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S.M.SUBRAMANIAM, J.

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