



W.P.(MD)No.1278 of 2011

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.10.2022
CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.1278 of 2011
and
M.P.(MD).No.1 of 2012

- 1.A.Thomas
- 2.Janaki
- 3.K.Ramachandran
- 4.Lathakumari
- 5.K.Vickraman
- 6.V.Ramachandran
- 7.T.Raj
- 8.Saralakumari
- 9.Johnson
- 10.Muppidathi
- 11.Moni
- 12.Chellappan
- 13.K.Thangaraj
- 14.Prabakaran



W.P.(MD)No.1278 of 2011

WEB COPY

15.Mathuralingam

16.Arumugam

17.J.Karunaidoss

18.Alagappan

... Petitioners

Vs.

1.The Deputy Chief Inspector of Factory,
Tirunelveli.

2.The Managing Director,
Government Rubber Corporation Limited,
Vadaseri,
Nagercoil,
Kanyakumari.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records of the impugned proceedings of the second respondent in Na.Ka.No.L2/12029/2010-1 dated 29.12.2010 and quash the same and further direct the second respondent to pay salary to the petitioners in par with the other permanent factory workmen of the second respondent Corporation as per the order of the first respondent dated 14.05.2010.

For Petitioners : Mr.H.Arumugam

For R-1 : Mrs.D.Farjana Ghoushia,
Special Government Pleader.

For R-2 : Mr.S.Ravichandran



W.P.(MD)No.1278 of 2011

WEB COPY

ORDER

This Writ Petition has been filed to quash the impugned proceedings dated 29.12.2010 with a consequential prayer to direct the second respondent to pay salary to the petitioners with the other permanent factory workmen of the second respondent Corporation as per the order of the first respondent dated 14.05.2010.

2. The petitioners 1 to 15 employed in the Government Rubber Factory at Mylar and the petitioners 16 to 18 are employed in the Government Rubber Factory at Keeriparai. The claim of the petitioners is that they were paid daily wages by the respondents and they are seeking time scale of pay and grant permanency.

3. When the Writ Petition was taken up for hearing, the learned counsel appearing for the respondents submitted that the petitioners were already granted permanency and paid daily wages. The learned counsel for the petitioners accept the same that they were granted permanency. However, the grievance of the petitioners is that they were paid daily wages and not time scale of pay. The



W.P.(MD)No.1278 of 2011

WEB COPY

learned counsel for the respondents submitted that the respondents has already entered settlement under 12(3) settlement dated 16.10.2012, wherein, it has been agreed by the Union and the employers that they will be paid only on daily wages basis. Once an agreement is entered under 12(3) settlement, the petitioners cannot claim time scale of pay. If the petitioners are aggrieved over the 12(3) settlement the petitioners have right to challenge the 12(3) settlement before the Labour Court. Therefore, the petitioners cannot demand time scale of pay by filing this Writ Petition, invoking Article 226 of the Constitution of India.

4. The learned counsel for the respondents submitted that similar issue also raised by the petitioners and after consideration, the matter was referred to the Government. The Government in G.O.Ms.No.115 dated 19.03.2013 has declined to refer the matter to the Labour Court. Therefore, there is nothing left for adjudication and submitted that this Writ Petition is liable to be dismissed. Moreover, subsequently the respondents have entered into another settlement in the year 2015 and the 2015 settlement is in force.



W.P.(MD)No.1278 of 2011

WEB COPY

5. The petitioners are seeking liberty to file a petition challenging the 12(3) settlement. However, challenging the 12(3) settlement is a statutory right and liberty is not necessary. Therefore, the petitioners may invoke their statutory right, if so advised and the Labour Court may consider it in accordance to law.

6. Hence, this Writ Petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

12.10.2022

Index : Yes / No
Internet : Yes

Nsr



WEB COPY



W.P.(MD)No.1278 of 2011

S.SRIMATHY, J

Nsr

To

- 1.The Deputy Chief Inspector of Factory,
Tirunelveli.
- 2.The Managing Director,
Government Rubber Corporation Limited,
Vadaseri,
Nagercoil,
Kanyakumari.

Order made in
W.P.(MD)No.1278 of 2011

12.10.2022