



W.P.(MD)No.6540 of 2014

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.11.2022

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.6540 of 2014

and

M.P.(MD)Nos.1 & 2 of 2014

National Harbor Workers Union,
(INTUC),
No.147, Great Cotton Road,
Tuticorin – 1.
represented by its General Secretary,
P.Kathirvel

... Petitioner

Vs.

1. The Chairman,
V.O.C. Port Trust,
Tuticorin.

2. The Secretary,
V.O.C.Port Trust,
Tuticorin

3. The Deputy Chief Labour Commissioner (Central),
5th Floor,
Sasthiri Bhavan,
Chennai – 6.

... Respondents



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the Impugned order of the third respondent herein, dated 07.04.2014 made in No.M.90(01)/2014-C3 and quash the same and direct the respondents No.1 and 2 to pay the amount, which was deducted under Section 7(2) (kk) of the Payment of Wages Act, from the members of the Petitioner Union to the Petitioner Union, within the time frame fixed by this Honourable Court.

For Petitioner : Mr.S.Kadarkarai
For R1 : Mr.A.Arivuchandran
For R2 : Mr.S.R.Neelakantan
For R3 : Mr.P.Thambidurai
Government Advocate



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ORDER

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This Writ Petition is filed challenging the order passed by the Labour Officer wherein the claim of the petitioner Union was rejected.

2. The Labour Officer has passed the following order:

“In this connection, it is to inform you that the Payment of Wages Act, 1936, does not provide any provision for deduction towards “donation” to the Trade Unions even with authorization from the individual workmen to this effect.”

3. The learned Counsel appearing for the petitioner relied on definition under 7 (2) (kk) of Payment of Wages Act 1936, wherein, it has been stated as under:

“(kk) deductions made, with the written authorization of the employed person, for the payment of his contribution to any fund constituted by the employer or a trade union registered under the Trade Unions Act, 1926 (16 of 1926), for the welfare of the employed persons or the members of their families, or both and approved by the appropriate Government or any officer specified by it in this behalf, during the continuance of such approval.”



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The nomenclature used in 7(2) (kk) is the deductions, the Labour Officer has stated this as donation. However, it is only deduction which was made in the salary of the workers, it will be remitted to the Trade Unions.

4. The contention of the petitioner is that there are two Trade Unions functioning within Tuticorin Port Trust. The first and second respondents have already deducted the amount because of the impugned order passed by the third respondent and the same was not transferred to the Petitioner Union. This Court is of the considered opinion that the deduction or donation indicates it is deducted for the contribution to the Trade Union. The nomenclature may vary but it indicates one and the same. Hence the impugned order is liable to be set aside and the same is set aside.

5. With the aforesaid observation, this Court is remitting back the case to the third respondent. The third respondent shall issue notice to the petitioner as well as to the first and second respondents. After the enquiry, the third respondent shall pass appropriate orders.



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6. With the above said direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

10.11.2022

Index : Yes / No
Internet : Yes / No
jbr

To

1. The Chairman,
V.O.C. Port Trust,
Tuticorin.
2. The Secretary,
V.O.C.Port Trust,
Tuticorin
3. The Deputy Chief Labour Commissioner (Central),
5th Floor,
Sasthiri Bhavan,
Chennai – 6.



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S.SRIMATHY, J

jbr

Order made in
W.P.(MD)No.6540 of 2014

10.11.2022