



W.P.No.24800 of 2006

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.07.2023

CORAM

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

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1.S.Mohan,
Proprietor,
Royal Valley Estate - Mohan Division,
Naduvattam,
Gudalur, The Nilgiris.

2.S.Neelakandan
Proprietor,
Royal Valley Estate - Neelakandan Division,
Naduvattam,
Gudalur, The Nilgiris.

3.S.Sivaraj,
Proprietor,
Royal Valley Estate - Sivaraj Division,
Naduvattam,
Gudalur, The Nilgiris.

4.R.Balakrishnan,
Proprietor,
Royal Valley Estate - Balakrishnan Division,
Naduvattam,
Gudalur, The Nilgiris.

... Petitioners

Vs.

1.The Inspector of Plantations,



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Office of the Inspector of Plantations,
Mysore road,
Gudalur, The Nilgiris.

2.Nilgiris Estate Workers Union,
Gudalur, The Nilgiris
Represented by its Secretary

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari calling for the entire records of the 1st Respondent leading to the issue of order made in Na.Ka.No.348/1999 dated 07.10.1999 and quash the same.

For Petitioner : Mr.A.Bobblie

For Respondents : Mr.T.M.Rajangam
Government Advocate

ORDER

This Writ Petition has been filed to call for the entire records of the 1st Respondent leading to the issue of order made in Na.Ka.No.348/1999 dated 07.10.1999 and quash the same.

2.The Petitioners herein, who are the Proprietors of the Tea Estate in Gudalur, Nilgiris have filed the above Writ Petition, challenging the impugned



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order passed by the first Respondent, based upon the report filed by the second Respondent on 07.10.1999.

3.The brief facts leading to filing of this Writ Petition is that the set of people who were said to have worked with the Petitioners' Estate herein have formed workers association as Nilgiris Estate Workers Union and the second Respondent has filed an application before the first Respondent against the Petitioners' Estate to regularise the service of the labours working in the Petitioners' Estate.

4.It appears that by an order dated 07.10.1999 the first respondent passed an order to make permanent the service of the labourers, whose name list was annexed in the said order. For some action being taken against some of the workers, they have approached the labour Court. At this juncture, the Petitioners herein came to know about the passing of the impugned order dated 07.10.1999 and hence for obtaining an order they have filed the present Writ Petition.



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5.Heard the learned counsel for the Petitioners and learned Government Advocate for the Respondents.

6.According to the Petitioners, before passing the impugned order, the Petitioners were not given an opportunity to defend their case and the first Respondent has not verified the employees roll and also he has also not verified whether the workers are working for more than 480 days in a span of 24 months, so as to get the relief under Section 3 (1) of the Tamil Nadu Industrial Establishment (Conferment of permanent status to workmen) Act, 1981.

7.Learned Government Advocate appearing on behalf of the Respondents based upon the counter affidavit filed by the first Respondent contended that notice has been issued to the Petitioners on 16.06.1999 and the same was served on them. The said contention was refuted by the Petitioners.

8.Based on the service records of the persons, whose names are enclosed in the list of representation made by the second Respondent, viz., their initial



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date of appointment, leave that has been availed by them and continuous service, the service period of the workers has to be ascertained. Merely because the representation has been made and averment has been made thereon that 480 days has been completed within a period of 24 months, the first Respondent ought not have been passed an order. Based upon the oral representation, an opportunity of being heard should be given, so as to satisfy the principles of natural justice.

9.The first Respondent being the statutory authority is governed by the rules under the Tamil Nadu Industrial Establishments (conferment of permanent status to workmen) Rules, 1981. The said rule contemplates the requirement of some basic details regarding the date on which they have worked, the number of dates they were availed leave. Unless those statutory requirements have been complied with, the first Respondent cannot in a flip flop method grant an order, without satisfying legal requirements as contemplated in the said act. It is a bounden duty of the statutory authority, constituted under the Act to satisfy himself that the workers name that was found in the representation, satisfying the statutory requirements as stated in the Act. Without the same, mere



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acceptance of statement that they have completed 480 days in two years, is not suffice and hence, I am inclined to interfere with the impugned order.

10.While passing this order, the learned Government Advocate stated that the first Respondent's nomenclature viz., The Inspector of Plantations, Office of the Inspector of Plantations, Mysore road, Gudalur, The Nilgiris was amended as the Assistant Commissioner of Labour (Plantation) Gudalur in the year 2018. Hence, direction is issued to the Assistant Commissioner of Labour (Plantation) Gudalur.

11.Accordingly, the impugned order made in Na.Ka.No.348/1999 dated 07.10.1999 by the first Respondent is hereby set aside and the matter is remanded to the Assistant Commissioner of Labour (Plantation) Gudalur. The Assistant Commissioner of Labour (Plantation), Gudalur shall serve with the copy of the representation made by the second Respondent along with the list of workers alleged to have been worked and particulars of leave availed by them. The Assistant Commissioner of Labour (Plantation), Gudalur shall consider the same, after giving opportunity of hearing to the parties, concerned,



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with regard to the dispute, if any and thereafter he shall pass orders in accordance with law.

12. With this observations this Writ Petition is allowed. No costs.

28.07.2023

Index : Yes
Neutral citation : Yes
Speaking Order

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To

1.The Assistant Commissioner of Labour (Plantation)
Gudalur,
The Nilgiris.

2.The Secretary,
Nilgiris Estate Workers Union,
Gudalur, The Nilgiris.



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RMT.TEEKAA RAMAN.J,

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