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W.P.Nos.14721 and 14722 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.14721 and 14722 of 2016

And

W.M.P.Nos.12868 and 12869 of 2016

The Management of
Sri Balaji Cotton Mills
Rep. by its Partner
R.A.Natarajan

... Petitioner in both the W.Ps.

Vs.

1.The Presiding Officer
Industrial Tribunal
Chennai – 600 104.

2.Sri Balaji Cotton MilssDesiyaPanchalai (INTUC)
Thozhilsangam rep. by its
Secretary

3.Salem RajajiMavattaPanchalai
Anna ThozhilalarSangam
Rep. by its Secretary

4.Salem MavattaDravidaPanchalai
ThozhilalarMunnetraSangam
Rep. by its Secretary
W.Ps.

... Respondents in both the

5.The Presiding Officer
Labour Court,
Salem.

... Respondent in W.P.14721/2016



W.P.Nos.14721 and 14722 of 2016

Prayer in W.P.No.14721 of 2016:

Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the first respondent in EP.23 of 2013, quash its order dated 23.12.2015.

Prayer in W.P.No.14722 of 2016:

Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the first respondent in I.D.No.167 of 1999 and quash its award dated 17.10.2008.

For Petitioner : Mr.G.Anand Gopalan
for M/s.T.S.Gopalan and Co.
For Respondents : Mr.B.K.Madhu for R2

COMMON ORDER

Since the issue involved in these writ petitions are interrelated, they are heard together and disposed of by way of a common order.

2.The case of the petitioner is that after takeover of the Mill by the petitioner during the year 1989 there were around 135 employees and settlements were signed with the employees with regard to various aspects including wages and conditions of service. During 1997 – 1998, the petitioner announced bonus of 18% and also agreed to pay Rs.1500/- as advance to the workmen. Whiles, the



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respondent Unions went on strike from 18.10.1998 to 13.07.2000 and raised industrial dispute in I.D.No.167 of 1999 before the first respondent and the first respondent passed award dated 17.10.2008 holding that the workmen are entitled to two months salary as notice pay and they are entitled for 15 days wages for every completed year of service towards gratuity and 15 days wages for every completed year of service towards retrenchment compensation with interest at 12% per annum from 18.10.1998.

3.The further case of the petitioner is that, since the workmen received their dues in terms of settlement dated 15.04.2007, there was no requirement for the petitioner to challenge the award dated 17.10.2008. However, in the year 2013, the respondents Union filed execution petition in E.P.No.23 of 2013 before the first respondent and the first respondent vide order dated 23.12.2015 allowed the execution petition and transmitted the award dated 17.10.2008 to the Labour Court, Salem for execution. Aggrieved by the same, the petitioner has filed these writ petitions.

4.The learned counsel appearing for the petitioner submitted that since the award dated 17.10.2008 was not implemented, the



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second respondent filed E.P.No.23 of 2013 before the first respondent and the first respondent vide order dated 23.12.2015 allowed the execution petition and transmitted the award dated 17.10.2008 to the Labour Court, Salem for execution. However, the petitioner is ready to pay the amount as per the settlement under Section 18(1) of the Industrial Disputes Act, but the petitioner is challenging the impugned award with regard to the interest portion awarded to the workmen.

5.The learned counsel appearing for the second respondent submitted that there was discrimination in settling the amount in favour of the workmen. The petitioner entered into settlement with one Elumalai as per Section 18(1) of the Industrial Disputes Act and only some workmen were settled by the petitioner and the petitioner did not come forward to settle all the workmen covered under the award. Hence, the respondents Union filed execution petition before the first respondent seeking the relief of transmission of award dated 17.10.2008 to the Labour Court, Salem and the same was allowed by the first respondent.

6.Heard the arguments advanced on either side and perused



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the materials available on record.

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7.In view of the submissions made on either side, this Court is inclined to set aside the award and award the same as payment of compensation which was extended to similarly situated person namely, Elumalai. The petitioner Management is directed to settle the amount to the members of the respondents union with 6% interest from March, 2014 to till the date of payment.

8.With the above direction, these writ petitions are allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

20.07.2023

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Speaking Order/ Non Speaking Order
Index: Yes/ No
Internet: Yes/ No

To

1.The Presiding Officer
Industrial Tribunal
Chennai – 600 104.

2.The Presiding Officer
Labour Court,
Salem.

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