



W.P. No.27636 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.12.2023

CORAM :

**THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER
KUMAR**

W.P.No.27636 of 2012

and

M.P.No.2 of 2012

A.Subramani

... Petitioner

Versus

1.The Government of Tamil Nadu,
Rep.by its Secretary,
Labour and Employment Department,
Fort St.George,
Chennai – 600 009.

2.The Management,
Sri Sabari Mills,
K. Sathanur,
K.K. Nagar Post,
Trichy – 21.

3.The Presiding Officer,
Labour Court,
Trichirapalli.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari, to call for the records pertaining to the order in G.O.(Rt.).No.47 Labour and Employment (D2) Department dated 01.02.2011 issued by the 1st respondent, quash the same in so far as its declaration that the 2nd respondent Mills was closed with effect from 20.02.1996, award costs.



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For Petitioner : Mr. V. Ajay Khose

For Respondents : Mr. G. Amedius,
Government Advocate (for R1)

ORDER

This Writ Petition is filed challenging G.O.(Rt).No.47, Labour and Employment (D2) Department, dated 01.02.2011, whereby the Spinning Mills located in the State of Tamil Nadu were declared as deemed to have been closed under Section 25(O) of the Industrial Disputes Act, 1947. The petitioner herein was working as a workman, in one such Mills namely M/s. Sri Sabari Mills, Trichy-second respondent.

2. The petitioner claims to have approach the Labour Court, Thiruchirapalli by filing C.P.No.185 of 2008 for payment of wages and other benefits. During the pendency of the said C.P, before the Labour Court, from the counter affidavit filed by the management the petitioner came to know about the impugned Government Order. Hence, challenging the said Government Order, the petitioner workman approached this Court by filing this Writ Petition.



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3. On a perusal of the impugned Government Order, it discloses that the managements of the respective Mills as well as the workers' Unions expressed their no objection for declaring the Mills as deemed to have been closed with effect from the respective dates mentioned in the said order. In the case of Mill which is subject matter of this Writ Petition, the date of closure was declared as 20.02.1996.

4. It is the contention of the learned counsel for the petitioner that the first respondent has no authority to issue such a Government Order and to declare that the second respondent's Mill is deemed to have been closed. According to him any closure of the Mill is required to be processed strictly in accordance with law under the provisions of the Industrial Disputes Act, 1947 in specific under Section 25(O) of the Act and in the instant case, such procedure was not followed.

5. Admittedly, the Management of the mill in question approached the Commissioner of Labour as early as in the year 1995 seeking permission to close the mill and the same was declined by the



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Commissioner of Labour on 28.11.1995. It is also not in dispute that the mill in question ceased to operate from 20.02.1996. Consequently, the employment in the mill also came to end in the year 1996.

6. For the reasons best known to the petitioner who had not taken any steps till 2008 to agitate against the cessation of the employment, only in the year 2008 filed a computation petition before the Labour Court, Trichy. However by the impugned Government Order, while declaring that the second respondent's mill was deemed to have been closed, the benefits under the Textile Workers Rehabilitation Fund Scheme introduced by Union of India were directed to be extended to all the employees of the second respondent's mill. In a way the impugned Government Order is beneficial to the workman of the second respondent's mill which was declared as deemed to have been closed.

7. This matter earlier came up for consideration on 12.12.2023 and this Court having heard the learned counsel for the petitioner and other side, the matter was adjourned to get instructions from the petitioner as to whether petitioner is interested to pursue this Writ Petition.



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8. When the matter is taken up today, it is informed by the learned counsel for the petitioner that inspite of the best efforts, he could not contact the petitioner. He also stated that the petitioner was aged about 61 years as on date of filing this Writ Petition in the year 2012. It is also not known as to what happened to the said C.P.185 of 2008 filed by the petitioner.

9. In the absence of informing about the latest situation and also taking into consideration the fact that it is only one workman of the second respondent's mill is before this Court challenging the impugned Government Order, this Court is of the considered view that it would be inappropriate to decide the validity of the said Government Order. On the other hand, this Court is of view that it should be left open to the petitioner, if so desirous to contest the impugned Government Order as well as the procedure that was followed, while issuing, the impugned Government Order, including the issue as to whether the deemed closure of the second respondent mill in question declared under the impugned Government Order, is in accordance with law or not, before the appropriate Labour



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Court in the pending proceedings or by initiating the proceedings afresh.

In the event, any such proceedings are initiated or pending before the Labour Court concerned, it shall deal with the matter in accordance with law and decide as to whether the closure of the second respondent's mill by the impugned Government Order, is in accordance with law or not.

10. With the above observations, the Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petition in M.P.No.2 of 2012 is also closed.

15.12.2023

Index : Yes/No
Speaking Order : Yes/No
Neutral Case Citation : Yes/No

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MUMMINENI SUDHEER KUMAR, J.

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