



W.P.No.7754 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 08.12.2022

PROUNOUNCED ON : 28.02.2023

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

Writ Petition No.7754 of 2015

The Management,
Salem Co-operative Sugar Mills Ltd.,
Mohanur, Namakkal District.

..Petitioner

Vs.

1.T.P.Murugesan
2.A.Balasubramiyam
3.G.Rajkumar
4.G.Prabakaran
5.P.Paramasivam
6.K.Suresh
7.S.Aarokkiya Larance
8.S.M.Subramiyam
9.T.Subramaniyam
10.K.Palanisamy
11.P.Krishnamoorthy
12.M.Senbagaraja
13.N.Saravanan
14.S.Sekar
15.P.Dinesh
16.A.Gubenthiran
17.L.Siva
18.D.Saravanan
19.S.Vijayan
20.G.Sivakumar
21.V.Palanivell
22.K.Saravanan



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23.M.Subramani

24.K.Arunagiri

25.K.Sathasivam

26.M.Mohanraj

27.The Joint Director of Industrial Safety and Health

(Authority under the Tamil Nadu Industrial

Establishments (Conferment of Permanent

Status) Act, 1981), Salem.

..Respondents.

Prayer: Writ Petition filed under Article 226 of Constitution of India praying to issue a Writ Of certiorari, to call for the records relating to the impugned order dated 31.10.2014 passed by the 27th respondent in No.A/3884/2013 and quash the same and pass further orders.

For petitioner :Mr.R.Bala Ramesh

For respondents :Mr.R.RengaRamanujam for R1 and R6

Mr.R.SankaraSubbu for R7,8,16,17,24, and 26

R2 to R5, R9 to R15, R 23 and

25 – No appearance.

ORDER

The present Writ Petition is filed by the Management against the order dated 31.10.2014 passed by the Joint Director of Industrial Safety and Health, authority under the Tamil Nadu Industrial Establishments (Conferment of Permanent Status) Act, 1981, Salem, whereby direction was given to the petitioner – Salem Coop Sugar Mills, to confer permanent status to 26 workers viz., respondents 1 to 26 in this writ petition.



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2. The 26 workers approached the authority seeking permanent status and regularisation as per the provisions of Tamil Nadu Act 46 of 1981 contending that they worked for 480 days in a period of 24 calendar months.

3. On the other hand, Management denied the contention of the workers and submitted that it was not continuous. It was claimed that the sugar industry is a seasonal industry and hence the provisions of the conferment of permanent status act will not apply.

4. The Authority, after hearing both sides, ordered the petition filed by workmen and granted the relief sought for by them. Aggrieved by the said direction, this writ petition came to be filed. This court while ordering notice, granted an order of interim stay on 19.03.2015. Thereafter the matter was listed on 30.09.2022, 07.12.2022 and today, this court heard the arguments of Mr.R.Bala Ramesh, learned counsel for the petitioner and Mr.R.Rengaramanujam and Mr.R.SankaraSubbu, learned counsel for the workmen.

5. Mr.R.Bala Ramesh, learned counsel for the petitioner-Management



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would contend that the petitioner Sugar Mills is a seasonal industry and crushing activities occur only for a few months in a year and therefore, casual employment of workers is the need and therefore, conferment of permanent status to workmen as per the Act, 1981 is not at all applicable to the Sugar Mills.

6. The second limb of argument of the learned counsel for the petitioner is that G.O.Ms.No.2043 Labour and Employment dated 24.09.1982 issued by the Government of Tamil Nadu specifically states that Act, 1981 does not apply to the seasonal establishments like the petitioner establishment.

7. Per contra, Mr.R.RengaRamanujam and Mr.R.SankaraSubbu, learned counsel appearing for workmen, contended that even if the sugar industry's operation of crushing of sugar is of seasonal activity, there are other activities which are conducted in the sugar factory throughout the year which include maintenance and repair works. Therefore, it cannot be said that the workmen were engaged only during the crushing season. The learned counsel further submitted that the 26 workmen who approached the authority categorically claimed that they were working in the petitioner Sugar Mills for the period of



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more than two years without any interruption and they served for 480 days continuously in the two year period and to prove the same sought for documents like attendance register, Muster Rolls, Log Book, Section Engineer Log Book, likewise 9 registers which are maintained by the petitioner and to produce the same before the authority, however, the petitioner management did not exhibit the same in their side. Therefore, the burden of proof shifts to the management who did not discharge the said burden of proof with substantive materials, as such, the authority given direction to the petitioner management to confer permanent status on the 26 workmen, which order is based on the terms of statutory enactment and cannot be found fault with.

8. Heard both sides and perused the impugned order.

9. In the present case, the Authority competent before whom petitions were filed by the 26 workmen, taken up the matter for hearing on 04.02.2014. Counter has been filed by the Management on 24.03.2014. Rejoinder dated 12.05.2014 was also filed on 19.05.2014. It was observed by the authority that the workmen have examined themselves on their side and also marked Provident Fund Receipts on their side as exhibits. The workmen in order to



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prove that they have put in continuous 480 days in a period of 24 calendar months, sought to summon Attendance Register and other statutory registers by the Management. The authority further noted that the matter has been adjourned for several dates and finally on 04.08.2014 the matter has been taken up for final disposal.

10. It is pointed out by the Authority that the principles of law laid down by the Honourable High Court in W.P.No.14971 of 2009 dated 24.06.2009 is applicable to the case on hand and as such, the Sugar Mills is not a seasonal industry as no authoritative order from a competent authority is issued under Section 25A or 25K of the Industrial Disputes Act.

11. The Authority emphasized that there was no documents forthcoming from the management to show that 26 workmen were working only during crushing season. On the other hand, in the Rejoinder, the workmen claimed that they worked even during off season. In the absence of Attendance Register and other statutory documents exhibited on the side of Management to controvert the stand of the workmen, the sugar mill was not considered as seasonal industry.



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12. The Authority found that a mere denial without producing necessary documents will not enable the management to contend that the workmen have not worked for 240 day continuous service. But given a finding that the workmen have worked for 480 days in preceding 24 calendar months.

13. On such findings, the Authority concluded that the petition filed by the workmen seeking for conferment of permanent status is ordered as prayed for and given direction to the Management to confer permanent status to the 26 workmen with the list showing their name, father's name, date of joining in service, nature of work, the date on which permanent status to be conferred.

14. In the considered opinion of this court, the directions issued by the Authority is squarely covered by the principles laid down by this court in W.P.No.14971 of 2009 dated 31.10.2011. This court do not find any case made out by the petitioner-management to interfere with the impugned order. Accordingly, the Writ Petition is dismissed. No costs. Interim stay is vacated.

28.02.2023

Nvsri



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Index: Yes/No

Speaking/Non-speaking order

Neutral citation: Yes/No

To

The Joint Director of Industrial Safety and Health
(Authority under the Tamil Nadu Industrial
Establishments (Conferment of Permanent
Status) Act, 1981), Salem.



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J.NISHA BANU, J.

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