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WP.Nos. 22418 & 22419 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2023

CORAM :

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.22418 & 22419 of 2018

and W.M.P.Nos.26273, 26274, 26275 & 28144 of 2018

Air India Casual Labour Union
Rp by its Secretary
Mr.P.Rajaujjal Singh
No.33, Burma Tamilar Colony
3rd Cross Street
Palavanthangal Post
Chennai-600 114.

...Petitioner
(in W.P.No.22418 of 2018)

Vs

1. Assistant Labour Commissioner (Central)
Office of the Deputy Chief Labour
Commissioner (Central), Shastri Bhavan
No.4, Haddows Road
Chennai-600 006

2. Government of India
Rep by Secretary
Ministry of Labour and Employment
Sharam Sakthi Bhavan
Rafi Marg, New Delhi-110 001.

3. Air India Limited, rep by
Chief Executive Director
Airlines House, Meenambakkam
Chennai-600 027.



WP.Nos. 22418 & 22419 of 2018

WEB COPY

4. Chairman and Managing Director
Air India Limited
Hansalaya Building, V Floor
No.15, barakambha Road
New Delhi-100 001.

5. Air India Air Transport Services Limited
(Wholly owned subsidiary of Air India Limited)
Rep by Nodal Officer
Air India Unity Complex
Pallavaram Cantonment,
Chennai-600 043.

6. General Manager-GH (Co-ord)
Southern Region,
Air India Airport Services
Air India Unity Complex
Pallavaram Cantonment,
Chennai-600 043.

7. Government of India, rep by
Secretary, Ministry of Civil Aviation
New Delhi.

...Respondents
(in W.P.No.22418 of 2018)

Vs

1. Air India Limited, rep.by
Chief Executive Director
Airlines House, Meenambakkam
Chenna-600 027.
2. Chairman and Managing Director
Air India Limited
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WP.Nos. 22418 & 22419 of 2018

WEB COPY

3. Air India Air Transport Services Limited
(Wholly owned subsidiary of Air India Limited)
Rep by Nodal Officer
Air India Unity Complex
Pallavaram Cantonment,
Chennai-600 043.

4. General Manager-GH (Co-ord)
Southern Region,
All India Airport Services
Air India Unity Complex
Pallavaram Cantonment,
Chennai-600 043.

5. Government of India, rep by
Secretary, Ministry of Civil Aviation
New Delhi.

6. Government of India,
Rep by Secretary
Ministry of Labour and Employment
Sharam Sakthi Bhavan
Rafi Marg, New Delhi-100 001

...Respondents
(in W.P.No.22419 of 2018)

PRAYER in W.P.No.22418 of 2018 : Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus or any other appropriate writ, order or direction in the nature of writ, directing the 2nd Respondent to refer the dispute between the members of the petitioner union and the 3rd respondent as per the provisions section 10(1)(d) of the Industrial Disputes Act, 1947 to the Industrial Tribunal at Chennai following the report of the 1st respondent dated 15.12.2016 passed in M8(18)/2016-B3 on the file of the 1st respondent.



WP.Nos. 22418 & 22419 of 2018

PRAYER in W.P.No.22419 of 2018 : Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of certiorarified Mandamus or any other appropriate writ, order or direction in the nature of writ, calling for the records in Ref.No.AIATSL/MAA/HM/460 dated 23.08.2018 on the file of the 4th respondent herein and quash the same and direct the official respondents to regularize the members of the petitioner union in their services in the 1st respondent establishment in a time scale of pay with effect from 1999 and pay the arrears of salary and other consequential service benefits to the members of the petitioner union.

For Petitioner
(in both petitions) : Mr.S.Sadasharam

For Respondents : Mr.S.Muthusamy
for R1, R2 & R7 in W.P.No.22418 of 2018
for R5 & R6 in W.P.No.22419 of 2018

: Mr.N.G.R.Prasad
for R3 to R6 in W.P.No.22418 of 2018
for R1 to R4 in W.P.No.22419 of 2018

ORDER

Since the issue involved in both Writ Petitions is one and the same, these petitions are disposed of by way of Common Order.

2. For the sake of convenience, the petitioner in both Writ Petitions will be referred to as “Petitioner union”. The 2nd respondent in W.P.No.22418 of 2018 and the 5th respondent in W.P.No.22419 of 2018



WP.Nos. 22418 & 22419 of 2018

will be referred to as “Respondent Government”. The 3rd respondent in W.P.No.22418 of 2018 and the 1st respondent in W.P.No.22419 of 2018 will be referred to as the “Respondent Management”.

3. The Writ Petition in W.P.No.22418 of 2018 has been filed seeking a direction to the respective 2nd Respondent to refer the dispute between the members of the petitioner union and the 3rd respondent as per the provisions of section 10(1)(d) of the Industrial Disputes Act, 1947 to the Industrial Tribunal at Chennai based on the report of the 1st respondent dated 15.12.2016.

4. The Writ Petition in W.P.No.22419 of 2018 has been filed challenging the impugned order dated 23.08.2018 passed by the respective 4th respondent and for a consequential direction to the official respondents to regularize the services of the members of the petitioner union in the respective respondent management and seeking certain other reliefs.



WP.Nos. 22418 & 22419 of 2018

5. It is the case of the petitioner that the members of the petitioner union are engaged as casual labourers in the Respondent management since 1999. Despite rendering continuous services, since their services were not regularized, the petitioner union submitted an application on 23.09.2016 raising an Industrial Dispute before the 1st respondent claiming regularization of services from 1999 and consequential service benefits. Though the petitioner union repeatedly made representations to the respondent management claiming regularization of the services of the employees, however there was no response from the respondent management. Pursuant to the dispute raised before the 1st respondent, upon notice, the respondent management submitted a written reply representation dated 18.11.2016 objecting the claim of the petitioner in the light of the award dated 03.02.2015 passed in I.D.No.53 of 2013 wherein, the Industrial Tribunal, Chennai rejected the claim of similar placed persons resultantly, the conciliation proceedings ended in failure and the 1st respondent forwarded the failure report of conciliation proceedings dated 15.12.2016 to the 2nd respondent under Section 12(4) of the Industrial Disputes Act. Subsequently, the members of the petitioner union once again made a



WP.Nos. 22418 & 22419 of 2018

representation on 23.04.2018 before the 1st respondent, since the same is pending consideration, the Writ Petition No.22918 of 2018 has been filed.

6. It is the case of the petitioner union in W.P.No.22419 of 2018 that even before raising a dispute before the 1st respondent, there were series of litigations before this Court. While so, the impugned notice dated 23.08.2018 came to be issued by the respective 4th respondent stating that the casual workers of the petitioner union will not be accepted for deployment in the Ground Handling activities in the airport areas from 01.09.2018 and that the said workers will be provided employment only on fixed contract terms. Challenging the said notice, Writ Petition No.22419 of 2018 came to be filed.

7. Though very many grounds have been raised, the learned counsel for the petitioner union would submit that it would suffice if this Court issues a direction to the respondent government to dispose of the conciliation report of the 1st respondent/Assistant Labour Commissioner dated 15.12.2016 and pass appropriate orders within the time that may be



WP.Nos. 22418 & 22419 of 2018

stipulated by this Court.

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8. On the above contentions, this Court heard the learned counsel appearing for the Respondent Government who has no objections to the said order being passed.

9. Learned counsel appearing for respondents 4 & 5 would submit that a dispute with regard to regularization of services was already raised by similarly situated persons before the Industrial Tribunal, Chennai in I.D.No.53 of 2013 which was dismissed rejecting the claim for regularization, however, the petitioner herein is seeking the very same relief which is not sustainable. Accordingly, he prays for dismissal of these Writ Petitions.

10. Though the respondents 4 & 5 objects to the relief sought for by the petitioner, however, in view of the limited relief sought for by the petitioner union, this Court without expressing any opinion on the merits of the case, directs the respondent Government to dispose of the conciliation



WP.Nos. 22418 & 22419 of 2018

report of the Assistant Labour Commissioner dated 15.12.2016 and pass appropriate orders on the same in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order. Till such time, the repondents 4 & 5 in W.P.No.22418 of 2018 are directed not to take any coercive steps with regard to the impugned notice dated 23.08.2018 as it is subject to the decision to be taken by the respondent government.

11. Accordingly, the Writ Petition No.22418 of 2018 is disposed of. With regard to W.P.No.22419 of 2018, no further is necessary in view of the order passed in W.P.No.22418 of 2018. Accordingly, the Writ Petition No.22419 of 2018 stands closed. There shall be no order as to costs. Consequently, the connected Miscellaneous Petitions are closed.

20.09.2023

Index : Yes (or) No

Neutral Citation : Yes (or) No

NHS

Note to office: Issue order copy on 28.11.2023.



WP.Nos. 22418 & 22419 of 2018

To

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WP.Nos. 22418 & 22419 of 2018

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6. General Manager-GH (Co-ord)

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7. The Secretary,
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WEB COPY



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