



WEB COPY



W.A. No. 914 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 16-10-2023

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

AND

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.A.No.914 of 2020

The Management,
Cheyyar Coop.Sugar Mills Ltd.,
rep.by its Administrator.

...

Appellant

-VS-

1.The Presiding Officer,
Additional Labour Court,
Vellore District,
Vellore.

2.The Dhina Kooli Thozhilalar Sangam,
rep.by the Secretary, J.Ravindran
Cheyyar Coop.Sugar Mills Ltd.

3.The Secretary,
Government of Tamil Nadu,
Department of Industry,
Fort St.George,
Chennai – 600 009.

4.The Commissioner of Sugar,
No.690, 2nd Floor,
Periyar Building,
Nandanam, Anna Salai,
Chennai – 600 035.

...

Respondents



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Appeal under Clause 15 of the Letters Patent against the order,
dated 29.04.2019, passed in W.P.No.14998 of 2011.

For Appellant : Mr.R.Bala Ramesh

For Respondent 2 : Mrs.D.Geetha

For Respondents 3 & 4 : Mr.Haja Nazirudeen,
Addl.Advocate General,
assisted by Mrs.Yamuna Devi,
Spl.Govt.Pleader.

JUDGMENT

(By S.Vaidyanathan,J.)

This appeal has been preferred against the order, dated
29.04.2019, passed in W.P.No.14998 of 2011.

2. The Government has referred the following two issues to the
Labour Court, Vellore, for adjudication :

(1) Whether the demands that the occupational wages should be paid to the (Dinakooli Thozhilalar) casual labourers as per the Clause 9 of the Section 12 (3) Agreement dated 28.09.1989 entered into between the Management of all the sugar Mills and the workmen represented by various Unions are justified ? If not so, give appropriate directions.

(2) Whether the demand that the seniority list for casual labourers should be prepared, and the casual labourers should be absorbed in the permanent vacancies as per the seniority list and according to the staffing pattern is justified ?



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Agriculture & Farmers' Welfare Department, have appeared and assisted the Court.

5. Parties have agreed that the employer will extend 40% of back-wages payable to the employees based on the Award of the Labour Court, dated 08.09.2009, passed in I.D.No.70 of 2004.

6. A Memo, dated 16.10.2023, has been filed by the second respondent Union, stating that there are 290 workers in the industrial dispute. On the earlier occasion, it was pointed out that 115 employees were pursuing the dispute.

7. The Additional Advocate General would submit that based on the number of employees, namely, 115, the settlement was proposed and the Government agreed for the same.

8. Mrs.D.Geetha would submit that though the total number of employees have been stated in the Memo, this Court can take note of the employees, numbering 115, pursuing the matter, and leave the matter open for the employees to redress the grievance, if any, before the authorities/Government/Mill. Her further submission that the employees



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have agreed that they would receive 40% of the back-wages; that the employer-employee contribution towards Provident Fund needs to be paid; that the employer can deduct employees' contribution from and out of 40% of the back-wages; and that the employer has to pay his contribution towards Provident Fund has been recorded.

9. The appellant Management and the Government have no objection to extend the benefit of 40% of back-wages due to 115 employees towards occupational wages pursuant to the confirmation of service. However, deduction of Provident Fund will be made from the said 40% and the employer will continue his share, which shall be remitted to Provident Fund Authorities. As wages are paid only now, there will be no penalty/damages leviable from the employer by EPFO.

10. Though it has been contended by Mrs.D.Geetha that 115 employees need to be identified by the Trade Union leader, who is pursuing the matter, and, if required, by the Advocate, the same has been resisted by Mr.R.Bala Ramesh, learned counsel for the appellant Management, on the ground that they have got all the records, based on which the amount can be extended to the employees. We do not want to express any views on this



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aspect. We make it very clear that the employer will have to pay the amount mentioned in the Agreement to 115 employees, after deducting PF and remitting the same together with employer's contribution within a period of four months from the date of receipt of a copy of this order. The employer may get assistance of the Lawyer for the Union and the Secretary/Office bearer of the Union, so that the identification of the employees can be made at the earliest and the amounts be paid to 115 employees. We also make it clear that if any other persons are interested in the matter, it is open for them to agitate and get the relief that may be due to them in accordance with law. In view of the Settlement, the benefits of regularisation as per the Award have to be extended to the employees, who have retired and who are still working now, in terms of the Award, moreso, in the light of Section 18 (3) of the Industrial Disputes Act, 1947.

11. Writ Appeal is disposed of accordingly. No costs.

Consequently, the connected C.M.P.No.11261 of 2020 is closed.

Index : Yes/No

(S.V.N.,J.)

(K.R.S.,J.)

Internet : Yes/No

16-10-

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dixit



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To

1. The Presiding Officer,
Additional Labour Court,
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Vellore.
2. The Secretary,
Government of Tamil Nadu,
Department of Industry,
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This matter has been listed under the caption “For Being Mentioned” at the instance of official respondents.

2. When the matter is taken up, it is represented on behalf of official respondents that the name and designation of two officials, at Serial Nos. (1) and (2), in paragraph No.4 of the judgment dated 16.10.2023 passed in the above writ appeal, have been wrongly mentioned and the same needs to be rectified.

3. In the light of the submission made on behalf of the official respondents, the name and designation of the officials mentioned at Serial Nos.(1) and(2) of paragraph No.4 of the judgment dated 16.10.2023, shall be rectified as hereunder:

(1) Thirumathy. P. Amutha, I.A.S., Principal Secretary to Government, Home, Prohibition and Excise Department *instead of* Thiru

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nv

Kumar Jayant, I.A.S., Additional Chief Secretary to Government, Labour Welfare and Skill Development Department

(2) Thiru G.K. Arun Sundar Thayalan, I.A.S., Additional Secretary to Government, Finance Department *instead of* Thiru.T. Udhayachandran, I.A.S., Principal Secretary to Government, Finance Department.

4. Registry is directed to incorporate the correct name and designation of the officials mentioned supra in paragraph No.4 of the judgment dated 16.10.2023 in the above writ appeal and issue fresh order copy forthwith.

nv

17.11.2023

(S.V.N.J.) (K.R.S.J.)

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