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W.P.Nos.12046 to 12050 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2023

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THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.Nos.12046 to 12050 of 2017

and

WMP.Nos.12912 to 12916 of 2017

M/s.Pulliccar Mills Ltd.,
Rep. by its Managing Director,
Post Box No.7, Tiruchengode – 637 211,
Namakkal District.

...Petitioner in all W.P's.

Vs.

1. The Assistant Commissioner of Labour,
Salem. ...1st Respondent in all W.P's.
2. G.Natarajan ...2nd Respondent in W.P.No.12046 of 2017
3. A.Stephen ...2nd Respondent in W.P.No.12047 of 2017
4. K.Rathinam ...2nd Respondent in W.P.No.12048 of 2017
5. Padmavathi ...2nd Respondent in W.P.No.12049 of 2017
6. N.Chandra ...2nd Respondent in W.P.No.12050 of 2017

Prayer in W.P.No.12046 of 2016: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the 1st respondent dated 12.05.2016 passed in P.G.Case No.149 of 2015 and quash the same as illegal, arbitrary, unlawful and against the principles of natural justice.



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Prayer in W.P.No.12047 of 2016: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the 1st respondent dated 12.05.2016 passed in P.G.Case No.147 of 2015 and quash the same as illegal, arbitrary, unlawful and against the principles of natural justice.

Prayer in W.P.No.12048 of 2016: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the 1st respondent dated 12.05.2016 passed in P.G.Case No.146 of 2015 and quash the same as illegal, arbitrary, unlawful and against the principles of natural justice.

Prayer in W.P.No.12049 of 2016: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the 1st respondent dated 12.05.2016 passed in P.G.Case No.145 of 2015 and quash the same as illegal, arbitrary, unlawful and against the principles of natural justice.

Prayer in W.P.No.12050 of 2016: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the 1st respondent dated 12.05.2016 passed in P.G.Case No.144 of 2015 and quash the same as illegal, arbitrary, unlawful and against the principles of natural justice.

In all W.P's.:

For Petitioner : Mr.S.Viswanathan
for M/s. Dass and Viswa Associates

For Respondents : Mr.M.S.Prem Kumar, GA, for R1
: Mr.K.V.Shanmuganathan, for R2



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COMMON ORDER

Since the issue involved in all these Writ petitions are similar in nature, they are disposed of by way of this common order.

2. The petitioner has come up with these Writ petitions seeking quashment of the orders of the 1st respondent dated 12.05.2016 made in P.G.Case Nos.144 to 147 & 149 of 2015.

3. The case of the petitioner is that since the petitioner industry was running in loss, the management decided to wind up and accordingly, the industry had stopped functioning as on 20.01.2014 and all the eligible employees were given the benefits. While so, the respective 2nd respondents, who served in the petitioner industry as casual labourers, with unclean hands approached the 1st respondent, seeking direction against the petitioner management for payment of gratuity benefits in their favour along with interest thereupon, vide separate applications bearing P.G.Case Nos.144 to 147 & 149 of 2015 and the 1st respondent, without considering any of the above said facts, vide present impugned orders, directed the petitioner



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management to pay the respective gratuity amount to the respective 2nd respondents along with 10% interest. Challenging the same, the petitioner has come up with these Writ petitions.

4. Learned counsel for the petitioner submitted that, though the respective 2nd respondents are not permanent employees and are not eligible to the benefits of payment of gratuity, as they have never served the petitioner management for any continuous period of five years, however, without affording opportunity to the petitioner management to produce necessary documents to substantiate their claim, the 1st respondent, had hurriedly and mechanically passed the present impugned orders that too without any discussion and without any calculations and simply awarded the respective gratuity amount in favour of the respective 2nd respondents by way of present impugned non-speaking orders, which is *per se* illegal. Hence, he prayed for appropriate orders.

5. On the above contentions, this Court heard the learned counsel appearing for the respective 2nd respondents and he fairly submitted that the matter may be remanded to the 1st respondent, who may be directed to grant



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an opportunity of hearing to the Management and, thereafter, consider the issue and pass a reasoned speaking order.

6. On the above said contentions, heard learned Government Advocate appearing for the 1st respondent and perused the material documents placed on record.

7. Though very many grounds have been raised by the learned counsel on either side at the time of arguments, however, in view of the fair submission made by the learned counsel appearing for the respective 2nd respondents, as the present impugned orders were passed, without affording opportunity to the petitioner management, which is a clear violation of principles of natural justice, this Court is inclined to interfere with the same and accordingly, the impugned orders are set aside and the matters are remanded to the 1st respondent.

8. The 1st respondent is directed to consider the cases on merits and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order, after affording opportunity of personal hearing to the petitioner and the respective 2nd respondents.



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WEB COPY 9. Accordingly, these Writ Petitions stand disposed of with the aforesaid directions. No costs. Consequently, connected Miscellaneous petitions are closed.

25.07.2023

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NCC : Yes / No
Speaking Order : Yes / No
Index : Yes / No

To

The Assistant Commissioner of Labour,
Salem.



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M.DHANDAPANI., J.

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