



W.P.Nos.30144 of 2018 & 2333 of 2019
and W.M.P.No.35181 of 2018

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2023

CORAM

THE HONOURABLE MRS. JUSTICE **R. HEMALATHA**

W.P.Nos.30144 of 2018 & 2333 of 2019
and W.M.P.No.35181 of 2018

W.P.No.30144/2018 :

- 1.N.V.Srinivasan (Code No.S-1014)
- 2.T.Rajakumar (Code No.S-0868)
- 3.N.Meenatchisundaram (Code No.S-1399)
- 4.R.Balasubramanian (Code No.S-1068)
- 5.V.S.Shanmugam (Code No.S-0992)
- 6.M.Ragupathy (Code No.S-0976)
- 7.Christopher Fernandez (Code No.S-1268)
- 8.K.Kannan (Code No.S-0947)

... Petitioners

Vs.

1.Union Territory of Puducherry,
Represented by its Chief Secretary - cum- Chairman,
Pondicherry Textile Corporation Limited,
Puducherry - 605 001.

2.Anglo French Textiles,
Unit of Pondicherry Textile Corporation Limited,
Represented by its Managing Director,
Mudaliarpeta,
Puducherry - 605 004.

... Respondents



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WEB CO **W.P.No.2333/2019 :**

N.R.Trade Union Congress,
Represented by its President,
Mr.Mohandass,
No.27, Pudhu Street,
Kounderpalayam, Puducherry - 605 009.

... Petitioner

Vs.

1.Union Territory of Puducherry,
Represented by its Chief Secretary,
Government of Puducherry,
Puducherry - 605 001.

2.The District Collector of Puducherry,
Government of Puducherry,
Saram, Puducherry - 605 013.

3.The Anglo French Textiles,
A Unit of Pondicherry Textile Corporation Limited,
Represented by its Managing Director,
Mudaliarpeta, Puducherry - 605 004.

... Respondents

Prayer in W.P.No.30144/2018 : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to forthwith settle all the amounts payable to the petitioners such as retirement benefit fund, encashment of unavailed earned leave, Employer's and Employees' Contribution of Provident Fund, salary deducted for the months of July and August 2012, etc. together with interest at 12% in view of belated payment.



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Prayer in W.P.No.2333/2019 : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to forthwith pay the interest at the rate of 10% per annum payable thereon on the amounts of gratuity due to the members of the petitioner's Union from the respective dates of their retirement.

In W.P.No.30144/2018 :

For Petitioners : Mr.Kandhan Duraisami
For R1 : Ms.Sharada Vivek,
AGP (Puducherry)
For R2 : Ms.Priyatharsini Balayogeshwaran

In W.P.No.2333/2019 :

For Petitioner : Mr.V.Kamala Kumar
For R1 : Ms.Sharada Vivek,
AGP (Puducherry)
For R2 : Ms.Priyatharsini Balayogeshwaran

COMMON ORDER

The writ petitioners were all employed in Pondicherry Textile Corporation Limited which is a Government of Puducherry undertaking. They retired under Voluntary Retirement Scheme. However, they have



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not been paid retirement benefits such as the encashment of unavailed earned leave, Employer's and Employees' Contribution of Provident Fund, salary deducted for the months of July and August 2012, etc. together with interest at 12% per annum. According to the writ petitioners, income is the foundation of any fundamental right and if, Anglo French Textiles suffer from the deficiency of funds to settle writ petitioners' payments, it is always open to the corporation to sell any of the landed properties of the Anglo French Textiles and pay the amounts due to the workers.

2.Mr.Kandhan Duraisami, learned counsel for the writ petitioners would contend that though all the writ petitioners had retired voluntarily during the year 2013, they have not been paid their contribution of provident fund and that their salary was also deducted for the months of July and August 2012. According to him, the representations of the writ petitioners dated 07.05.2018 & 15.10.2018 did not evoke any response from the respondents.



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3.Ms.Priyatharsini Balayogeshwaran, learned counsel

appearing for the second respondent filed a counter affidavit in which in para 9 it is stated thus :

"9. I respectfully submit that, even though all the claim of the petitioners can't be claimed as of right as explained in the above para still the mill management is accepting all the dues and ready to pay them due to the reason that to give the maximum benefit to the employees as a model employer. But the only contention is that the mill management has to pay first statutory dues like Gratuity, Provident Fund dues and Employees State Insurance Corporation dues, subsequently the other terminal benefits has to be prioritized and to dealt with".

In the additional typed set of papers in para 18, it is mentioned thus :

"18. In a nutshell I humbly submit that with regard to the claims of

i. Salary :

The petitioners will be paid 50% of the salary as per G.O.

ii. Retirement Benefit Fund :

Though the petitioners are not eligible for it, if the Government sanctioned for payment they will be



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To

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R. HEMALATHA, J.
mtl

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