



W.P.(MD)No.8884 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.03.2023

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THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

W.P(MD).No.8884 of 2020
and
W.M.P(MD)No.8143 of 2020

The Chief Executive Officer,
Tamilnadu Khadi and Village Industries Board,
5th Floor, Kuralagam,
Chennai - 600 104.

... Petitioner

Vs

1.K.Thangammal

2.P.Rajamani

... Respondents

Prayer:- Writ Petition is filed under Article 226 of Constitution of India to issue a writ of certiorari calling for the records comprised in Pa.Ni.Sa.Va.No.12,13 of 2018 (Na.Ka.No.E/2337/2018 and Na.ka.No.E/2338/2018) dated 14.10.2019 on file of the Deputy Commissioner of Labour,Dindigul and quash the same as arbitrary, illegal, contrary to principles of law and rules of natural justice.

For Petitioner : Mr.Raguvaran Gopalan

For Respondents : Mr.S.Karthick



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ORDER

Heard the learned counsel on either side.

2. The respondents herein joined the Khadi Board on 23.03.1988 and 12.02.1990 respectively. They were working as Senior Spinners in the various centres run by the Board. They applied for conferment of permanency status. The statutory authority vide order dated 14.10.2019 allowed the claims and directed that the first respondent will be entitled to permanency status with effect from 24.03.1990 and the second respondent will be entitled to permanency status with effect from 13.02.1992. Questioning the said order, the present writ petition came to be filed.

3. The learned counsel for the writ petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition. He raised a question of jurisdiction. According to him, the Tamilnadu Act 46 of 1981 will not apply to Tamilnadu Khadi and village industries Board. He also would add that the respondents would collect materials from the board



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and carry out the spinning work in their respective homes and that therefore, the petitioner will not qualify to be an establishment within the meaning of Section 2(3) of the Act. He pressed for allowing the writ petition by setting aside the impugned order.

4. Per contra, the learned counsel appearing for the respondents submit that the impugned order does not call for interference.

5. I carefully considered the rival contentions and went through the materials on record. The issue of maintainability and jurisdiction was not projected before the statutory authority. It is being raised by the learned counsel for the petitioner for the first time in this writ petition. When similar orders conferring permanency were passed by the statutory authority, and the same was put to challenge in W.P.No.1160 of 2009 by the Board, the writ petition was dismissed and questioning the same, the Management of Tamilnadu Khadi and Village industries Board filed a Writ Appeal in W.A.No.758 of 2016. Vide order dated 24.07.2018, the Writ Appeal was dismissed. Ofcourse, the issue of maintainability was neither raised nor



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gone into. But the fact remains that orders of permanency under Tamilnadu Act 46 of 1981 had earlier been passed against the Board. Secondly, a number of senior spinners were already regularised and many of them were even transferred to various Government Departments. The respondents are similarly placed. Therefore, on the ground of jurisdiction, I am not inclined to interfere.

6. As rightly pointed out by the learned counsel appearing for the respondents the management did not mark the order of appointment. Nor did it mark any proceeding setting out the duties and responsibilities of senior spinners. The learned counsel for the respondent would contend that the respondents were reporting for duty not only daily but they stayed in the office premise of the Board throughout the day. They were also tasked with the responsibility of repairing the machinery.

7. I am therefore not able to endorse the stand of the learned counsel for the petitioner that the respondents herein used to carry out their spinning work only in their respective homes and not within the premise of the



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Board. When a statutory authority after appreciation of the facts on record came to the conclusion that the claimants are entitled to status of permanency, the writ Court ought not to re-appreciate the same.

8.This Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition stands closed.

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NCC : Yes/No
Index :Yes/No
Internet :Yes / No

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G.R.SWAMINATHAN, J.

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