



W.P.(MD).No.8640 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 17.04.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No. 8640 of 2023

and

W.M.P(MD)No. 7936 of 2023

1.S.Uthaya Kumar

2. R. Thangaraj

3. S.Paul Raj

4. Lal N.S.Shine Singh

5. R. Ramesh

... Petitioners

Vs.

1.The Principal Secretary to Government,
Environment and Forest Department,
Saint George Fort,
Secretariat,
Chennai – 600 009.

2. The Chairman,
Arasu Rubber Corporation Limited,
Chennai – 600 100.

3. The Managing Director,
Arasu Rubber Corporation Limited,
Post Box No.75, Vadaseri,
Nagercoil – 629 001,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of ***Writ of Mandamus***, to direct the respondents to grant time scale of pay to the petitioners in the cadre of Factory worker /

<https://www.mhc.tn.gov.in/> Taper from the date of permanent absorption in the 3rd respondent



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corporation and to grant all other attendant and monetary benefits due to the petitioners within a stipulated time may be fixed by this Court.

For Petitioner : Mr.M.Saravanakumar
For R-1 : Mr.S.Shanmugavel
Additional Government Pleader
For R-2 & R-3 : Mr.A.K.Thanikkam

ORDER

By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

2. This Writ Petition has been filed to grant time scale of pay to the petitioners in the cadre of Factory worker / Tapper from the date of permanent absorption in the 3rd respondent corporation with other attendant and monetary benefits due to the petitioners, within a stipulated time may be fixed by this Court.

3. When the writ petition was taken up for hearing, the learned counsel appearing for the respondents submitted that the petitioners were already granted permanency and paid daily wages. The learned counsel for the petitioners accept the same that they were granted permanency. However, the grievance of the petitioners is that they were paid daily wages and not time scale of pay. The learned counsel for the respondents



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submitted that the respondents have already entered 12(3) settlement, wherein, it has been agreed by the Union and the employers that they will be paid only on daily wages basis. Once an agreement is entered under 12(3) settlement, the petitioners cannot claim time scale of pay. If the petitioners are aggrieved over the 12(3) settlement the petitioners have right to challenge the 12(3) settlement before the Labour Court. Therefore, the petitioners cannot demand time scale of pay by filing this Writ Petition, invoking Article 226 of the Constitution of India.

4. The learned counsel for the respondents submitted that similar issue also raised by the petitioners and after consideration, the matter was referred to the Government. The Government in G.O.Ms. No.115 dated 19.03.2013 has declined to refer the matter to the Labour Court. Therefore, there is nothing left for adjudication and submitted that this Writ Petition is liable to be dismissed.

5. The petitioners are seeking liberty to file a petition challenging the 12(3) settlement. However, challenging the 12(3) settlement is a statutory right and liberty is not necessary. Therefore, the petitioners may invoke their statutory right, if so advised and the Labour Court may consider it in accordance to law.



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6. Hence, this Writ Petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

Index : Yes / No
Internet : Yes
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To

The Principal Secretary to Government,
Environment and Forest Department,
Saint George Fort,
Secretariat,
Chennai – 600 009.



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S.SRIMATHY, J

ksa

**Order made in
W.P.(MD)No.8640 of 2023**

17.04.2023