



W.P(MD)No.26895 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.26895 of 2023
and W.M.P(MD)No.23106 of 2023

Bharatiya Kudankulam Anumin Thozhilalar Sangam,
Rep. its General Secretary,
Anuvijay Township,
Radhapuram Taluk,
Tirunelveli District

... Petitioner

Vs.

1. Government of India,
Ministry of Labour,
Rep.its Secretary,
Shiram Sakthi Bhawan, Rafi Mag,
New Delhi – 110 001.

2.The Regional Labour Commissioner (Central),
Kanaga Apartments, Suit No.3,
1st Floor, 13-A, Lady Doak College Road,
Chinnai Chokkikulam,
Madurai – 625 002.

3.The Site Director,
Kudankulam Nuclear Power Project,
Nuclear Power Corporation of India kLtd.,
Radhapuram Taluk,
Tirunelveli District.

... Respondents



W.P(MD)No.26895 of 2023

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ in the nature of writ of Certiorarified Mandamus after calling for the records from the 2nd respondent relating to the impugned proceeding dated 30.08.2023 passed in No.8/2/23 R/M closing the industrial dispute relating to the demand of pay the risk and hardship allowance for Fire fighting staff of the 3rd respondent and consequently direct the 2nd respondent to re-open the conciliation proceeding and send failure report under Section 12(4) of the I.D Act to the 1st respondent and the 1st respondent, in turn, to refer the dispute for adjudication to the Central Government Industrial Tribunal cum Labour Court, Chennai, within a specified time as may be fixed by this Court.

For Petitioner : Mr.S.Arunachalam

For R1 & R3 : Mr.K.Govindarajan
Deputy Solicitor General of India

ORDER

The present Writ Petition has been filed by a fire fighting staff of the Kudankulam Nuclear Power Project challenging the order passed by the conciliating authority namely, the 2nd respondent herein.



W.P(MD)No.26895 of 2023

WEB COPY

2. According to the learned counsel appearing for the writ petitioner, they were working as fire fighters in Kudankulam Nuclear Power Project and as per the Government Orders, they are entitled to the risk allowance for being fire fighters from 01.07.2017 onwards. From 03.08.2023, fire fighting operations have been taken over by CISF staff. Therefore, the petitioner has been redeployed as Technical Assistant.

3. The grievance of the writ petitioner is that they are entitled to receive risk allowance for the period between 01.07.2017 and 02.08.2023 till the fire fighting operations were taken over by CISF staff. Since the request of the petitioners was not considered, the matter was referred to the conciliating authorities namely, the 2nd respondent herein. Under the impugned order dated 30.08.2023, the conciliating officer, namely, the 2nd respondent has gone into merits of the issue and has decided the issue without referring the dispute to the central industrial tribunal. The said order is under challenge in this Writ Petition.



W.P(MD)No.26895 of 2023

WEB COPY

4. The role of the conciliating officer is to conciliate the dispute between the parties and in case, if he arrives at a finding that the issue could not be resolved, he is duty bound to refer the matter to the Central Industrial Tribunal. The conciliating officer cannot close the issue. Therefore, the impugned order of the 2nd respondent dated 30.08.2023 passed in No.8/2/23 R/M is set aside. The matter is remanded back to the file of the 2nd respondent herein. The 2nd respondent is directed to refer the matter to the Central Industrial Tribunal. Both parties are at liberty to raise all the issues before the Central Industrial Tribunal.

5. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

18.12.2023

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



W.P(MD)No.26895 of 2023

WEB COPY

To,
1. Government of India,
Ministry of Labour,
Rep.its Secretary,
Shiram Sakthi Bhawan, Rafi Mag,
New Delhi – 110 001.

2.The Regional Labour Commissioner (Central),
Kanaga Apartments, Suit No.3,
1st Floor, 13-A, Lady Doak College Road,
Chinnai Chokkikulam,
Madurai – 625 002.

3.The Site Director,
Kudankulam Nuclear Power Project,
Nuclear Power Corporation of India kLtd.,
Radhapuram Taluk,
Tirunelveli District.



WEB COPY



W.P(MD)No.26895 of 2023

R.VIJAYAKUMAR, J.

CM

W.P(MD)No.26895 of 2023
and W.M.P(MD)No.23106 of 2023

18.12.2023