



WEB COPY

W.P.Nos.10018 of 2006 and 27463 of 2007

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.11.2024

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.Nos.10018 of 2006 and 27463 of 2007
& W.M.P.Nos.11318 and 18884 of 2006
& M.P.No.2 of 2007

- 1.S.VELUSAMY
- 2.V.GOVINDA SAMY
- 3.P.SUNDAR RAJ
- 4.MUTHU SAMY
- 5.A.NATARAJAN
- 6.E.R.PERUMAL SAMY.
- 7.K.MUTHU SAMY
- 8.M.SHANMUGAM
- 9.K.RANGA SAMY
- 10.N.RAMA SAMY
- 11.A.NANDA KUMAR
- 12.N.JAYA PRAKESH
- 13.R.SIVA KUMAR
- 14.S.RAVI CHANDRAN
- 15.M.MURUGESHAN
- 16.N.KANAKA SUNDRAM
- 17.E.K.SIVA LINGAM
- 18.R.BALA KRISHNAN
- 19.S.MARUTHACHALAM
- 20.P.RAMAMOORTHY
- 21.S.MOHAN KUMAR
- 22.V.BALA KRISHNAN
- 23.R.NANDA KUMAR
- 24.P.GOPALA KRISHNAN



W.P.Nos.10018 of 2006 and 27463 of 2007

- 25.S.SADHA SIVAM
26.K.ARUMUGAM
27.K.SHANMUGA SUNDRAM
28.C.M.PALANISAMY
29.N.R.MURUGESHAN
30.R.ARUMUGAM
31.R.ARUMUGAM
32.A.MAYIL SAMY
33.K.GOPI
34.P.PARAMESHWARAN
35.K.KANNAN
36.M.PALANISAMY
37.P.AYYASAMY
38.N.CHINNA KANNAN
39.A.SENTHIL KUMAR
40.A.VIJAYA KUMAR
41.M.NAGARAJ
42.A.RATHINA VELU
43.K.BALA, CHANDRAN
44.N.BALA SUBRAMANIAN
45.N.SIVAKUMAR
46.V.ARUMUGAM
47.P.RAMASAMY.
48.R.PALANISAMY
49.V.M.KALIMUTHU
50.P.GOVINDA RAJ
51.N.MOHAN RAJ
52.S.VIJAYA KUMAR
53.K.MURUGANATHAN
54.N.DURAI SAMY
55.K.SUBRAMANIAN
56.S.RAVI CHANDRAN
57.K.DURAI SAMY
58.N.PARAMA SIVAM
59.R.SARAVANAN
60.K.KRISHNAN
61.R.PALANISAMY
62.D.INDRA RAJ
63.A.RAMA KRISHNAN



W.P.Nos.10018 of 2006 and 27463 of 2007

64.S.TAMIL SELVAM
65.M.GUNASEKARAN
66.V.DURAI SAMY
67.K.SELVARAJ
68.A.SENTHIL KUMAR
69.A.SURESH KUMAR
70.P.BOOPATHY
71.T.LOGANATHAN
72.A.PARAMESHWARAN
73.S.DHANAPAL
74.N.THILAGARAJ
75.C.MURUGESAN
76.A.MADHIAZHAGAN
77.R.KANAGARAJ
78.A.KUPPUSAMY
79.V.RAMESH
80.G.SARGUNAM
81.S.MANOKARAN
82.N.MARIMUTHU
83.D.JAGANATHAN
84.R.PALANISAMY
85.P.RANGASWAMY
86.A.RAJ
87.S.P.KANAGAN

Vs.

1.The Presiding Officer
Labour Court
Coimbatore.

2.The Management of Janardhana Mills Ltd.,
represented by its Chairman and
Managing Director, Varadharajapuram,
Singanallur, Coimbatore.

**.. Petitioners in
W.P.No.10018 of 2006**

**.. Respondents in
W.P.No.10018 of 2006**



W.P.Nos.10018 of 2006 and 27463 of 2007

Shree Janardhana Mills Ltd.,
Singanallur, Coimbatore,
Represented by its Authorised Signatory
S.Nagarajan

.. **Petitioner in**
W.P.No.27463 of 2007

Vs.

1.The Secretary,
Kovai Periyar Maavatta Dravida
Panchalai Thozhilalar Munnetra Sangam (MLF)
Tatabad, Veedhi No.3,
Coimbatore – 641 012.

2.State of Tamil Nadu
Rep.by the Additional Secretary (Labour)
Labour and Employment Department
Secretariat, Fort St.George
Chennai – 600 009.

3.The Commissioner of Labour
Labour and Employment Department
DMS Compound, Chennai – 600 006.

4.The Industrial Tribunal – Tamil Nadu
Second Floor, City Civil Court Building,
Chennai – 600 104.

.. **Respondents in**
W.P.No.27463 of 2007

Prayer in W.P.No.10018 of 2006: Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent's common order passed in C.P.No.88 of 2004 and C.P.No.626 of 2004 on 29.12.2004 and quash the same and direct the



W.P.Nos.10018 of 2006 and 27463 of 2007

respondent/Management to pay the claim amount mentioned in C.P.No.88 of 2004 and C.P.No.626 of 2004.

Prayer in W.P.No.27463 of 2007: Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, to call for the records comprised in the proceedings of the second respondent in G.O.(D).No.528 dated 10.07.2007 and quash the same as arbitrary, without jurisdiction and being without application of mind and consequently issue a Mandamus forbearing the fourth respondent from trying or enquiring or proceeding in any manner pursuant to the reference made by the second respondent in G.O.(D).No.528 dated 10.07.2007.

In W.P.No.10018 of 2006:

For the Petitioner	:	Mr.V.Prakash, Sr. Counsel for Mr.S.Gokul
For the Respondents	:	Mr.Rahul Balaji for Mr.Siddharth Shivakumar for R2 R1 – Court

In W.P.No.27463 of 2007:

For the Petitioner	:	Mr.Rahul Balaji for Mr.Siddharth Shivakumar
For the Respondents	:	For R1 – No appearance Mr.K.Surendran, AGP for RR 2 &3 For R4 - Court



W.P.Nos.10018 of 2006 and 27463 of 2007

COMMON ORDER

WEB COPY

These two Writ Petitions are connected, taken up, and disposed of together.

2. W.P.No.10018 of 2006 is filed by the Workmen numbering 87. They have challenged the order passed in C.P. Nos. 88 of 2004 and 626 of 2004, dated 29.12.2004, and consequently, they want to direct the respondent, the Management of Janardhana Mills Ltd., to pay the claim amount mentioned in these orders.

3. The case of the Workmen in the said claim petitions is that the management namely *Janardhana Mills Limited* is a spinning mill at *Varadarajapuram, Singanallur, Coimbatore*. More than 100 workers are employed in the aforesaid mill. The Mill stopped operating from 04.10.1998. The Mill is an industrial undertaking governed Under Chapter V-B of the Industrial Disputes Act 1947 (in short 'The Act'). Therefore, the respondent Mill has a salutary duty to comply with the provisions of section 25 - O of the Act,



W.P.Nos.10018 of 2006 and 27463 of 2007

before the closing of the Mill, which is a factory within the meaning of section 2 (m) of the Factories Act. However, no prior permission was taken from the Government of *Tamil Nadu* before the closure of the Mill. Therefore, the closure violates Section 25 - O of the Act. Since the closure violates Section 25 – O of the Act, the petitioners/workmen are entitled to straightaway file a computation petition. Therefore, the petitioners claim wages, Earned Leave wages, Bonus and Provident fund for the period from 04.10.1998 till 31.12.2003 amounting a sum of Rs.88,06,208/.

4. Similarly, in C.P.No.626 of 2004 wages, Earned leave wages, Bonus and Provident fund, for the period from 04.10.1998 to 31.12.2003 were claimed. The Labour Court took up both the computation petitions and by a common order dated 29.12.2004 dismissed the Claim Petitions. Aggrieved by the same, the present Writ Petitions are filed by the Workmen. The Management has approached this Court aggrieved by the reference of the dispute by the Government.



W.P.Nos.10018 of 2006 and 27463 of 2007

WEB COPY

5. *Mr. V. Prakash*, the learned Senior Counsel appearing on behalf of the petitioners - Workmen would submit that when there is a violation of the statute, viz., Section 25 – O of the Act, the same goes to the root of the matter and therefore, without raising an industrial dispute, claim petitions filed by the Workmen are entertainable and therefore the finding of the Labour Court in this regard is without any basis. He would submit that as far as the settlement, which was made by the Management in the year 2002, the same is not as per law and merely because some of the trade unions have accepted, the same would not be binding on the Workmen. The workmen before this Court have not accepted the settlement amount. In view thereof, he would submit that the W.P.No.10018 of 2006 deserves to be allowed.

6. *Per Contra, Mr. Rahul Balaji*, the learned counsel appearing on behalf of the Management would submit that firstly, in this case, the submission made by the learned Senior Counsel that the closure was made without any order of the Government is factually incorrect, as after the closure, by G.O.(Rt) No. 158, Labour and Employment (D2) Department dated 28.02.2011, approval with



W.P.Nos.10018 of 2006 and 27463 of 2007

effect from the date of closure has been granted in respect of the respondent - Mill along with other Mills. Therefore, the primary contention to maintain the computation petitions without raising any industrial dispute is no longer available. The Government order has also become final.

7. In any event, all the workmen were granted the settlement amount in the year 2002 and everything having become final, these Workmen who are also bound by the settlement which is reached under Section 18 (1) of the Act, cannot belatedly now raise the entire issue again.

8. I have considered the submissions made on either side and perused the material records of the case.

9. Firstly the primary ground on which the computation petitions were argued to be maintainable no longer exists, given the Government order passed on 28.02.2011, granting ex post facto approval to the closure of the respondent - Mill. As such, the issue of granting wages straight away to the Workmen, without



W.P.Nos.10018 of 2006 and 27463 of 2007

a dispute being raised about the closure, doesn't arise and as such the final order of the Labour Court dismissing the claim petitions cannot be interfered with by this Court.

10. Secondly, it can also be seen that there is an 18 (1) settlement which is reached by five trade unions on behalf of all the Workmen and the compensation which is due and payable as per Section 25 – O of the Act, has also been disbursed. Though these Workmen who were involved in the present Writ Petitions did not initially accept the same, it is now brought to the notice across the bar that pending the proceedings, they have also accepted the said compensation. In view thereof, finding no merits the Writ Petition filed in W.P.No.10018 of 2006 stands dismissed. No costs.

11. As far as W.P.No.27463 of 2007 is concerned, it is seen that the Management is challenging the Government order in G.O. (D)No.528 dated 10.07.2007 inasmuch there are three questions were referred to by the Government order for answer by the Labour Court.



W.P.Nos.10018 of 2006 and 27463 of 2007

WEB COPY

12. The first question is, Whether or not the claim of the trade union that the Workmen are entitled to wages from the date of closure, i.e. from 04.10.1998 to 19.10.2002 is justified.

13. The second question is whether the 18 (1) settlement dated 25.10.2004 entered into with reference to *K. Parthasarathy* Spinning Mills is correct or not?

14. Similarly, the third question that was referred is about one *Jothi* Mills administration and the 18 (1) settlement dated 25.11.2013.

15. Thus, it can be seen that in the instant case, we are concerned only with the Management of *Janardhana* Mills Private Ltd., and therefore concerning question number one, though the scope of this Court under Article 226 of the Constitution of India, to interfere with the GO referring the dispute to Labour Court is very very limited, the learned counsel for the petitioners / Workmen would submit that already, in this case, there is an 18 (1) settlement between the 5 trade unions working in the Mill and after closure of the Mill, all



W.P.Nos.10018 of 2006 and 27463 of 2007

the trade unions accepted the settlement dated 19.10.2002 which was full and final settlement of the dispute. After accepting the same, belatedly, now once again the wages for the period from 1998 to 2002 are claimed.

16. As a matter of fact, there is no provision in the 18 (1) settlement for payment of the said wages. With open eyes, if clauses are otherwise if the trade unions have entered into a settlement, they cannot belatedly turn around and claim the same. In any event, already a dispute was sought to be raised concerning the self-same dispute and by G.O.(D) No.1009 dated 18.07.2005, the same was rejected. The said G.O. is also not challenged by the trade unions or any other workmen and has become final. Once the very same dispute has been refused to be referred by the Government and the same has become final, even after referring the earlier G.O as reference No.1, the present impugned Government order is passed. Therefore, the impugned order is totally without application of mind and is unsustainable.

17. *Per Contra*, the learned Senior Counsel appearing on behalf of the



W.P.Nos.10018 of 2006 and 27463 of 2007

petitioners/workmen would submit that the question itself would be from the period of closure till the settlement is arrived at. The settlement is only concerning the validity of the closure, i.e., up to 1998 and as to the payable compensation. When the Management did not enter into a settlement in the year 1998 and all the Workmen had been kept in the Bay for 4 years, then it is for the Labour Court to go into on merits and decide, whether or not they will be entitled for wages for the said period and this Court need not to curb the adjudication at the threshold. The question has to be decided on merits.

18. I have considered the rival submissions made on either side and perused the material records of the case.

19. In this case it is seen that by an 18 (1) settlement dated 19.10.2002, all the Workmen and the Management have amicably resolved the issue. As a matter of fact, in Clause No.6 of 18 (1) settlement, it is clearly stated that the amounts which are intended to be paid by the Management being accepted by all the Workmen and that there will be no further claim whatsoever and there will be no



W.P.Nos.10018 of 2006 and 27463 of 2007

other dispute between the management and the Workmen thereafter. Therefore, it cannot be said that there is no clause in the 18 (1) settlement regarding this period.

20. The second contention is that the petitioners / Workmen who have raised the present issue were not a party to the earlier 18 (1) settlement. When it is the admitted case that every Workmen have accepted the compensation, then earlier when different trade unions raised the same issue and were rejected vide G.O.(D) No.1009 dated 18.07.2005. Even thereafter, repeatedly one after the other, the trade unions cannot be permitted to raise disputes about the same issue. The petitioner management ought to have challenged the earlier Government order. In view thereof, I am of the view that the present attempt is nothing to reopen the concluded and stale matters, especially when 17 years have now gone by after the impugned order was passed. Accordingly, I am of the view that there is force in the submission made by the learned counsel appearing on behalf of the petitioner -Management.



W.P.Nos.10018 of 2006 and 27463 of 2007

21. In view thereof, the W.P.No.27463 of 2007 is allowed on the following

terms:

(i) The impugned order of the second respondent dated 10.07.2007 bearing reference G.O.(D). No.528 shall stand quashed and consequently, the claim petition, pending before the Labour Court, has to be closed;

(ii) The dispute relating to the issue and pending as I.D.No.33 of 2007, on the file of the Presiding Officer, Labour Court, Coimbatore shall stand closed;

(iii) No costs. Consequently, the connected miscellaneous petitions are closed.

25.11.2024

Neutral Citation : Yes

Jer



W.P.Nos.10018 of 2006 and 27463 of 2007

WEB COPY

To

- 1.The Presiding Officer
Labour Court
Coimbatore.
- 2.The Additional Secretary (Labour)
State of Tamil Nadu
Labour and Employment Department
Secretariat, Fort St.George
Chennai – 600 009.
- 3.The Commissioner of Labour
Labour and Employment Department
DMS Compound, Chennai – 600 006.
- 4.The Industrial Tribunal – Tamil Nadu
Second Floor, City Civil Court Building,
Chennai – 600 104.



WEB COPY



W.P.Nos.10018 of 2006 and 27463 of 2007

D.BHARATHA CHAKRAVARTHY, J.,

Jer

W.P.Nos.10018 of 2006 and 27463 of 2007

25.11.2024