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W.P.Nos.26842 of 2005, 980 & 981 of 2006

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2024

CORAM:

THE HONOURABLE MR. JUSTICE **D.BHARATHA CHAKRAVARTHY**

W.P.Nos. 26842 of 2005, 980 & 981 of 2006

and

W.M.P.Nos.1107, 1108 of 2006 & 29280 of 2005

W.P.No. 26842 of 2005

1. The Management
Hindustan Construction Co. Ltd.,
Hincon House,
L.B.S.Marg,
Tagore Nagar Post,
Vikrohli West,
Mumbai - 400 003.
Rep. by its Deputy General Manager HR.

2. The Management
Hindustan Construction Co. Ltd.,
53-B, Radhakrishnan Salai,
Chennai - 600 004.
Rep. by its Deputy General Manager HR.

... Petitioners

Vs

1. The Government of Tamilnadu,
Rep. by the Secretary,
Labour and Employment,
Fort St.George,
Chennai - 600 009.



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2. The District Collector,
Chennai District,
Chennai - 600 001.
 3. The Presiding Officer,
Principal Labour Court,
Chennai.
 4. J.N.Agnihotri.
 5. The Commissioner,
Construction Employees P.F., Construction House,
Walchand Hirachand Marge,
Mumbai.
- ... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorari, to call for the records relating to G.O.(D) No.421 dated 17.03.2005, Labour and Employment Department passed by the first respondent and quash the same.

For Petitioners	: Mr.R.Jayaprakash
For R1 & R2	: Mr.K.Surendran Additional Government Pleader
For R3	: Labour Court
For R4	: Mr. U.Jugal Kumar
For R5	: Notice served

W.P.No. 980 of 2006

The Management
Hindustan Construction Co. Ltd.,



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Hincon House,
L.B.S.Marg,
Tagore Nagar Post,
Vikrohli West,
Mumbai - 400 003.
Rep. by its Deputy General Manager HR.

...Petitioner

Vs

1. The Presiding Officer,
Principal Labour Court,
Chennai.
2. J.N.Agnihotri.
3. The Management
Hindustan Construction Co. Ltd.,
53-B, Radhakrishnan Salai,
Chennai - 600 004.
4. The Commissioner,
Construction Employees P.F., Construction House,
Walchand Hirachand Marge,
Mumbai.

Prayer: Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus, to call for the records connected with order of the first respondent dated 28.10.2005 made in I.A.No. 91 of 2005 passed by the first respondent and quash the same and consequently direct the first respondent to decide the interlocutory application S.R.No. 5980 of 2005 filed by the petitioner to set aside the order of the first respondent dated 24.08.2004 in C.P.No. 675 of 2002.



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Prayer: Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus, to call for the records connected with order of the first respondent dated 28.10.2005 made in I.A.No. 92 of 2005 passed by the first respondent and quash the same and consequently direct the first respondent to decide the interlocutory application S.R.No. 6613 of 2005 filed by the petitioner to set aside the order of the first respondent dated 24.08.2004 in C.P.No. 675 of 2002.

For Petitioner : Mr.R.Jayaprakash

For R1 : Labour Court

For R2 : Mr. U.Jugal Kumar

For R3 & R4 : Not ready in notice

ORDER

All these writ petitions are connected to each other and as such are taken up for disposal by way of this common order.

2. The brief facts leading to the filing of these writ petitions are that, aggrieved by the non-employment, the workman involved in these writ petitions, namely one J.N.Agnihotri had raised an industrial dispute in I.D.No. 45 of 1975. An award in favour of the workman was passed on 28.03.1990 in



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the said Industrial Dispute. Pursuant thereto, the workman filed a computation petition in C.P.No.806 of 1990 before the Labour Court, claiming the Provident Fund amount due to him, a sum of Rs. 1,37,186/-. An ex-parte order was passed computing the said sum and allowing the same.

3. It is seen that in respect of the other back wages, a separate computation petition was filed, which has reached finality in separate proceedings. This computation petition was resisted by the management on the ground that there is no pre-existing right and that, without the dispute being decided before the appropriate forum, the computation petition was not maintainable. However, after being set ex-parte, an order was passed. The management filed I.A.No.91 and 92 of 2005 in C.P.No. 675 of 2002. The same was rejected by an order dated 28.10.2005. Aggrieved by which, the writ petition Nos. 980 and 981 of 2006 were filed by the management.

4. In the meanwhile, an ex-parte order passed in the said computation petition was put to recovery and the Government passed G.O.(D) No.421 dated 17.03.2005, directing that the amount of Rs.1,51,267.44 be recovered as



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if it were arrears of land revenue. Aggrieved by which, the writ petition No. 26842 of 2005 was filed. By way of a conditional order, the petitioner management was directed to deposit the entire sum, which was accordingly, deposited, and the same is lying to the credit of the C.P.

5. On a perusal of the contention made on behalf of the management, the only contention is that the filing of the computation petition straight away was incorrect. At this distant point of time, it would be extremely harsh on the workman if this Court considers the said objection and sets aside the order and directs the workman to once again approach the authority afresh.

6. On the contrary, the amount has been deposited long back. It can be seen that in this case, the industrial dispute started in the year 1975. Therefore, after 49 years, it would be inequitable for this Court to even direct the workman to once again start the claim. Since the claim is only with reference to Provident Fund and the entire amount has been deposited to the credit of the claim petition, I am of the view that the workman can be permitted to withdraw the said sum along with accrued interest, if any.



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7. In view thereof, these writ petitions are disposed of on the following

terms:-

(i) In view of the sheer efflux of time of 49 years from the date of starting of the Industrial Dispute and in view of the fact that the amount claimed by the workmen has also been deposited to the credit of C.P No.675 of 2002, the writ petitions are closed by confirming the order passed by the Labour Court in C.P.No. 675 of 2002.

(ii) The workman is entitled to withdraw the amount deposited by the management to the credit of C.P.No.675 of 2002 pursuant to the interim order of this Court in W.P.No. 26842 of 2005 along with accrued interest.

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

02.12.2024

Neutral Citation: Yes/No
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D.BHARATHA CHAKRAVARTHY, J.

nsI

To

1. The Secretary,
Labour and Employment,
Fort St.George, Chennai - 600 009.
2. The District Collector,
Chennai District,
Chennai - 600 001.
3. The Presiding Officer,
Principal Labour Court, Chennai.

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