



W.A.(MD)No.49 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.03.2024

CORAM:

THE HONOURABLE **MRS.JUSTICE V.BHAVANI SUBBAROYAN**
AND
THE HONOURABLE **MR.JUSTICE K.K. RAMAKRISHNAN**

W.A.(MD)No.49 of 2017
and
C.M.P.(MD)No.487 of 2017

The Managing Director,
National Cooperative Sugar Mills Ltd.,
B.Mettupatti 625 502,
Alanganallur,
Madurai District.

...Appellant

/Vs./

1.The Deputy Director of Industrial Safety and Health II Circle,
Madurai, Authority under TIE (CPSW) Act.

2.M.Malaichamy

...Respondents

PRAYER:- Writ Appeal - filed under Clause XV of Letters Patent Act, to
allow the writ appeal and set aside the order passed by this Court in M.P.
(MD)No.1 of 2015 in W.P.(MD)No.18872 of 2015 dated 06.01.2016.



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For Appellant : Mr.P.Chandra Bose
For Respondents : Mr.A.K.Manikkam (R1)
Special Government Pleader
Mr.S.M.Mohan Gandhi (R2)

JUDGMENT

(Judgment of the Court was made by **V.BHAVANI SUBBAROYAN, J.**)

Challenge has been made, against the common order passed by this Court in M.P.(MD)No.1 of 2015 in W.P.(MD)No.18872 of 2015 dated 06.01.2016, by the Managing Director of the National Cooperative Sugar Mills Limited, who was the writ petitioner before the Writ Court,.

2. The writ petitioner, who is the appellant herein had sought for order of interim stay of all further proceedings of the impugned order of the first respondent dated 05.05.2014 challenged in the writ petition. The second respondent in this writ appeal is the workman employed by the writ petitioner. He claimed permanency by making an application before the concerned authority under the Tamil Nadu Industrial



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Establishments (Conferment of Permanent Status to Workmen) Act, 1981 (hereinafter referred to as “Act, 1981”). The authority passed an order dated 05.05.2014 allowing the application filed by the second respondent by granting permanent status to him on completion of 480 days of service. Challenging the same, the writ petitioner, who is the appellant herein has filed the writ petition, wherein this Court passed the common order dated 06.01.2016 in M.P.(MD)No.1 of 2015 in W.P.(MD)No.18872 of 2015, which was challenged by way of this writ appeal.

3. The learned Single Judge of this Court modified the order of interim stay granted on 15.10.2015 and granted an order of interim stay of arrears pursuant to the impugned order granting permanent status alone. It was also made clear that the workman involved in the writ petition shall be granted permanent status as per the impugned order on notional basis and appropriate fixation shall be made from the date of the writ petition and the arrears will be subject to the final outcome of the writ petition.



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4. The learned Additional Government Pleader appearing for the first respondent submits that the main writ petition was dismissed on 09.11.2023, which was also produced before this Court.

5. The learned Single Judge of this Court in the main writ petition was of the view that the first respondent has statutory powers to deal with the original petition of the second respondent / workman on the ground that the writ petitioner mill is a factory as defined under Section 2(m)(i) of the Factories Act, 1948 and that the Inspector of Factories re-designated as Deputy Director, Industrial Safety and Health vide G.O.Ms.No.226, Labour and Employment Department, dated 17.09.2013, II Circle, Madurai, is an Inspector notified under the Factories Act, 1948. The officials of the Labour Department as well as the Inspector of Factories are notified as Inspectors under the Act 1981. Admittedly, the petitioner Mill is situated within the administrative jurisdiction of the 1st respondent.



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6. The learned Single Judge of this Court was also of the view that the farm labourers fall under the definition of 'workmen' under Section 2(4) of the Act, 1981 and that the cane farm of the mill would form part of the factory for the purpose of Section 2(M) of the Factories Act, 1948. The maximum number of days detaining the Farm Labourers from work was only 24 in the year 2012. This itself clearly establishes that most of the Farm Labourers have worked for more than 240 days. The Management also admitted that Farm Labourers depending on the need are engaged in various works. As such, there is no substance in the contention of the writ petitioner that the employment of the Farm Labourers was only a seasonal employment.

7. It was further held in the main writ petition that the nature of work carried on in the Cane Farm is only an extension work of the writ petitioner Mill and the Farm Labourers have been engaged by the writ petitioner continuously for many years and paid minimum daily wages for more than 30 years. The material available on record proved that the writ petitioner used to engage the Farm Labourers for some other works



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inside the Mill. It is also proved that all the Farm Labourers were engaged throughout the year except on holidays. It was concluded that the 2nd respondent workman has acquired right under Section 3 of the Act, 1981 for conferment of permanent status by satisfying the condition viz., continuous service for a period of 480 days in a period of 24 calender months.

8. For the aforesaid reasons, the learned Single Judge of this Court opined that the impugned order of the first respondent dated 05.05.2014 is passed on consideration of the applicable laws and on relying the judgments of the Hon'ble Apex Court and High Courts and thoroughly examining the evidence available on record and as such, this Court could not find any infirmity in the reasoned order / impugned order in the writ petition and accordingly, the writ petition was dismissed.

9. This Court heard the submissions of the learned counsel appearing on either side and also perused the materials placed before this Court.



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10. On perusal of the materials available before this Court, we are of the categorical view that the findings rendered by the learned Single Judge of this Court are correct in law and only after considering all the aspects, the order dated 06.01.2016 has been passed and further the main writ petition itself was dismissed by the learned Single Judge of this Court, vide order dated 09.11.2023. Hence, there is no infirmity in the order passed by the learned Single Judge of this Court and the same does not warrant any interference. This writ appeal is dismissed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

(V.B.S.J.) & (K.K.R.K.J.)

18.03.2024

(9/19)

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

K.K. RAMAKRISHNAN, J.

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TO:-

1. The Deputy Director of Industrial
Safety and Health II Circle,
Madurai, Authority under TIE (CPSW) Act.

Judgment made in
W.A.(MD)No.49 of 2017
(9/19)

Dated:
18.03.2024