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W.P.No.2966 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2025

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.2966 of 2011

And

M.P.No.1 of 2011

Nervagam
Tamil Nadu Kudineer Vadikal Variyam,
Chennai.

... Petitioner

Vs.

1.The Workmen rep. by
Tamil Nadu Kudineer Vadikal
Variya Oozhiyar Madhya Amaippu,
13, Masoothi Theru,
Chennai – 600 005.

2.Presiding Officer
Industrial Tribunal,
Chennai 600 104.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records made in impugned award dated 29.09.2008 in I.D.No.57/2000 received by the petitioner on 08.05.2009 on the file of the Labour Court, Chennai the second respondent herein, received by the petitioner on 08.05.2009.



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For Petitioner : Mr.S.Ravindran
Senior Counsel
for M/s.S.Mekhala

For Respondents : Mr.Ajoy Khose for R1
for M/s.M.Muthupandian
R2 – Tribunal

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorari to call for the records made in impugned award dated 29.09.2008 in I.D.No.57 of 2000 received by the petitioner on 08.05.2009 on the file of the second respondent herein.

2.The learned Senior Counsel appearing for the petitioner submitted that the first respondent union raised charter of demands before the petitioner regarding various service conditions. Since no settlement was arrived the conciliation officer submitted failure report dated 21.08.1995 to the Labour and Employment Department, Government of Tamil Nadu and the Government vide order dated 27.11.1996 refused to refer the issue for adjudication and challenging the same, the first respondent filed W.P.No.1885 of 1998 and this Court vide order dated 25.06.1999 allowed W.P.No.1885 of 1998 and



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directed the Government to refer the matter for adjudication under

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Section 2(k) of the Industrial Disputes Act. Accordingly, the matter was referred to the second respondent and the second respondent vide impugned order directed the petitioner Management to regularise the members of the first respondent. Aggrieved by the same, the petitioner has filed this writ petition.

3.The learned Senior Counsel appearing for the petitioner further submitted that this Court, without going into the merits of the case, may permit the members of the first respondent to file separate claim petition under Section 3 of the Conferment of Permanent Status to Workman Act. If such petition is filed by the members of the first respondent, allow the petitioner to establish before the Authority under the Conferment of Permanent Status to Workman that the respective members have not continuously worked for more than 480 days in two calender years.

4.In view of the above, the award dated 29.09.2008 in I.D.No.57 of 2000 on the file of the second respondent/ Presiding Officer Industrial Tribunal, Chennai, is set aside. Liberty is granted to the



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members of the first respondent union to file separate claim petition

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under Section 3 of the Conferment of Permanent Status to Workman Act before the Authority under the Conferment of Permanent Status to Workman. If such petitions are filed by the members of the first respondent, the Authority under the Conferment of Permanent Status to Workman, without referring to limitation, shall decide the said petitions on merits and in accordance with law. The period during which the writ petition was pending before this Court and the period during which the industrial dispute was pending before the second respondent/ Presiding Officer Industrial Tribunal, Chennai are excluded for the purpose of limitation.

5.The writ petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

13.02.2025

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

To

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1.The Presiding Officer
Industrial Tribunal,
Chennai 600 104.

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M.DHANDAPANI,J.
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