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Cont.P.No.1994 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2025

CORAM
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE K.RAJASEKAR

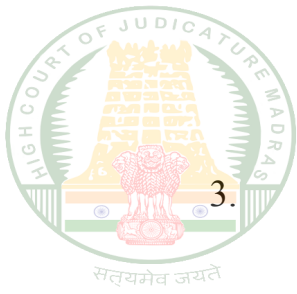
Cont.P.No.1994 of 2024
in
W.A.No.914 of 2020

Dhina Kooli Thozhilalar Sangam,
Represented by the Secretary,
J.Ravindran,
Cheyyar Co-operative Sugar Mills,
Anakavur, Thenthandalam,
Cheyyar Taluk,
Tiruvannamalai District.

... Petitioner

Vs.

1. T.Kamakshi,
Administrator,
Cheyyar Cooperative Sugar Mills Ltd.,
Represented by its Administrator,
Anakkavur,
Thiruvannamalai District.
2. Mr.V.Arun Roy, I.A.S.,
The Secretary,
Government of Tamil Nadu,
Department of Industries,
Fort St.George,
Chennai - 600 009.



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3. Mr.Vijayaraj Kumar, I.A.S.,
The Commissioner of Sugar,
No.690, 2nd Floor, Periyar Building,
Anna Salai,
Nandanam,
Chennai - 600 035.

... Respondents

Prayer: Contempt Petition filed under Section 11 of the Contempt of Courts Act, 1971 to punish the respondents herein for wilful contempt of the order of this Court dated 16.10.2023 passed in W.A.No.914 of 2020.

For Petitioner	: M/s.D.Geetha
For Respondents	: Mr.J.Ravindran Additional Advocate General assisted by Mr.T.Chezhiyan Additional Government Pleader [for R1 to R3]

ORDER

(Order of the Court was made by **S.M.SUBRAMANIAM, J.**)

The contempt petition has been instituted to punish the respondents for their willful disobedience of the order of this Court dated 16.10.2023 passed in Writ Appeal No.914 of 2020.



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2. The order of the Division Bench reads as under:

“5. Parties have agreed that the employer will extend 40% of back-wages payable to the employees based on the Award of the Labour Court, dated 08.09.2009 passed in I.D.No.70 of 2004.

6. A Memo, dated 16.10.2023, has been filed by the second respondent Union, stating that there are 290 workers in the industrial dispute. On the earlier occasion, it was pointed out that 115 employees were pursuing the dispute.

7. The Additional Advocate General would submit that based on the number of employees, namely, 115, the settlement was proposed and the Government agreed for the same.

8. Mrs.D.Geetha would submit that though the number of employees have been stated in the Memo, this Court can take note of the employees, numbering 115, pursuing the matter, and leave the matter open for the employees to redress the grievance, if any, before the authorities/Government/Mill. Her further submission that the employees have agreed that they would receive 40% of the back-wages; that the employer-employee contribution towards Provident Fund needs to be paid; that the employer can deduct employees' contribution from and out of 40% of the back-wages; and that the employer has to pay his contribution towards Provident Fund has been recorded.

9. The appellant Management and the Government have no objection to extend the benefit of 40% of back-wages due to 115 employees towards occupational wages pursuant to the confirmation of service. However, deduction of Provident Fund will be made from the said 40% and the employer will continue his



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share, which shall be remitted to Provident Fund Authorities. As wages are paid only now, there will be no penalty/damages leviable from the employer by EPFO.

10. Though it has been contended by Mrs.D.Geetha that 115 employees need to be identified by the Trade Union leader, who is pursuing the matter, and, if required, by the Advocate, the same has been resisted by Mr.R.Bala Ramesh, learned Counsel for the appellant Management, on the ground that they have got all the records, based on which the amount can be extended to the employees. We do not want to express any views on this aspect. We make it very clear that the employer will have to pay the amount mentioned in the Agreement to 115 employees, after deducting PF and remaining the same together with employer's contribution within a period of four months from the date of receipt of a copy of this order. The employer may get assistance of the Lawyer for the Union and the Secretary/Office bearer of the Union, so that the identification of the employees can be made at the earliest and the amounts be paid to 115 employees. We also make it clear that if any other persons are interested in the matter; it is open for them to agitate and get the relief that may be due to them in accordance with law. In view of the Settlement, the benefits of regularisation as per the Award have to be extended to the employees, who have retired and who are still working now, in terms of the Award, moreso, in the light of Section 18(3) of the Industrial Disputes Act, 1947."



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3. Mrs.D.Geetha, the learned Counsel appearing on behalf of the petitioner Sangam would refer the recorded findings during the hearing of the present contempt petition and submit that the calculations submitted by the petitioner Sangam has been taken on record. Therefore, now the respondents cannot turn around and produce their own calculations in the present contempt petition, which would be lesser than that of the calculation made by the petitioner Sangam. Further, it is contended that the calculations submitted by the petitioner Sangam was agreed upon by the respondents during the course of earlier hearings and at that point of time the respondents have not filed any calculation. Therefore, the said calculation of the petitioner is to be accepted for the purpose of settling 40% of the occupational wages. At the outset, it is contended that what transpired during the course of writ appeal hearing is that the calculation submitted by the petitioner Sangam is agreed upon. Therefore, the payments are to be settled based on the said calculation.

4. Mr.J.Ravindran, the learned Additional Advocate General appearing on behalf of the respondents 1 to 3 would oppose by stating that the respondents have implemented the directions issued by this Court in final order dated 16.10.2024. Several discussions made during the hearing of the



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writ appeal and recording made by the Court during the hearing are merged with the final order. Therefore, based on the discussions made during the various hearings, now the petitioner Sangam cannot insist the court to settle the amount as per their calculations. The Government calculated as per the original service records available. Therefore, the calculation made by the Government based on the service particulars of the members of the petitioner Sangam and thus there is no reason for the respondents to reduce any amount to the disadvantage of the members of the Sangam. They are entitled for the wages for which they are eligible. That being so, the respondents have not committed any contempt of Court willfully.

5. The first memorandum filed by the petitioner sangam is to settle benefits to 295 employees. Thereafter, the number of employees are restricted to 115 and further calculation memo was filed.

6. During the hearing of the proceedings, the first memorandum filed in respect of 295 employees alone was taken into consideration by the Court. The second memorandum for 115 employees were submitted on 16.10.2023 ie., the date on which the final order passed in W.A.No.914 of 2020. Therefore, the respondents have not verified the memorandum filed on

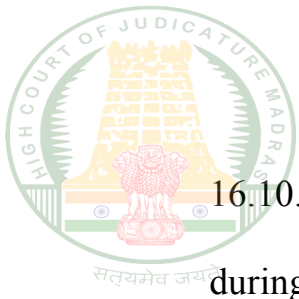


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16.10.2023, which was submitted on the date of passing of the final order in W.A.No.914 of 2020. With reference to the first memo filed for 295 employees that was not agreed between the parties, since the consensus was arrived to settle the benefits only to 115 employees.

7. May that as it be, in a contempt proceedings it is not sufficient if the orders are violated. Willful disobedience of the orders are to be established for the purpose of punishing the Government Authorities under the contempt of Courts Act. Adjudication of issues on merits need not be undertaken in a contempt proceedings and the final order passed by the Court alone is to be considered for forming an opinion whether the Authorities have committed any willful disobedience of the orders of this Court or not.

8. The learned Counsel for the petitioner would refer the day order passed by this Court in contempt proceedings. It was recorded that the members of the petitioner Sangam was made to believe that they are entitled to 40% of the amount as per the settlement / memorandum filed by them. However, on scrutiny, it is found that two separate memorandum's are filed. One for 295 employees at the first instance and the second memorandum was filed for 115 employees on the date of passing of the final order on



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16.10.2020 in W.A.No.914 of 2020. Therefore, recordings of the Court during the hearing cannot be considered as final orders for the purpose of dealing with the contempt proceedings. It can be considered only to the extent what exactly transpired during the hearing.

9. The final order against which the contempt petition has been filed would indicate that the employer will have to pay the amount mentioned in the Agreement to 115 employees, after deducting PF and remitting the same together with employer's contribution within a period of four months from the date of receipt of a copy of the order.

10. The final order was passed based on the consensus arrived between the parties to settle 40% of the back wages payable to the employees based on the award of the Labour Court dated 08.09.2009 passed in I.D.No.70 of 2004. However, the said position has been clarified in Paragraph No.5 of the final order passed in writ appeal. In paragraph No.6 also it is stated that there are dispute relating to 290 workers. However, the respondents agreed to settle the benefits only to 115 employees. Pertinently, the exact amount to be settled to the employees has not been recorded by this Court except the memo filed by the petitioner Sangam initially for 295



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workers and on the date of passing of final order for 115 workers. Thus, this Court has not finalized the quantum of amount to be settled to 115 employees.

11. As far as the quantum of amount to be settled as per the directions issued in the writ appeal order, it is to be calculated with reference to the service particulars of each worker. The original service records are available with the Government. The Government establishment is duty bound to calculate the eligibility based on the service particulars available in original records. After calculating the said amount, the memorandum has been filed by the respondents in the contempt proceedings. The said calculation is now disputed by the petitioner Sangam. The said dispute cannot be adjudicated in the present contempt proceedings.

12. Therefore, there is no willful disobedience of the orders of the Court, which is established for the purpose of invoking the contempt jurisdiction.

13. The learned Additional Advocate General would submit that the members of the petitioner Sangam have already received the settlement as per



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the calculation made by the respondents / Government Authorities. In the event of any dispute except regarding such calculation, they are at liberty to approach the labour Court in the manner contemplated under law.

With this liberty, the Contempt Petition stands closed.

[S.M.S., J.] [K.R.S., J.]
06.03.2025

veda

Index: Yes/No

Speaking order/Non-speaking order

Neutral Citation: Yes/No

To

1. Administrator,
Cheyyar Cooperative Sugar Mills Ltd.,
Represented by its Administrator,
Anakkavur,
Thiruvannamalai District.
2. The Secretary,
Government of Tamil Nadu,
Department of Industries,
Fort St.George,
Chennai - 600 009.
3. The Commissioner of Sugar,
No.690, 2nd Floor, Periyar Building,
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S.M.SUBRAMANIAM,J.
AND
K.RAJASEKAR,J.

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