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W.P.No.10752 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.06.2025

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.10752 of 2021
and WMP.Nos.11387 & 11388 of 2021

Bharathiya Puducherry Co-operative Sugar
Mills Employees Union
Rep by its Secretary (Reg.No.1788/RTU/2015)
Katterikuppam, Lingareddypalayam
Puducherry - 605 502. ... Petitioner

Vs.

1. Government of Puducherry
Rep by its Secretary, Labour Department
Second Floor, Labour Complex
Gandhi Nagar, Puducherry - 605 009.
2. The Managing Director
The Pondicherry Co-operative Sugar Mills Ltd.,
Lingareddy Palayam, Katterikuppam
Puducherry - 605 502. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned Letter No.PCSM/Estt/5-10/2020/1595 dated 22.05.2020 issued by the second respondent and quash the same as being illegal, arbitrary and unconstitutional and consequently direct the



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respondents to give due livelihood protection to the employees of the second respondent Mills with all attendant benefits including monetary benefits.

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For Petitioner : Mr.C.K.Chandrasekhar
For Respondents : Dr.Ramaswamy
Additional Government Pleader (Pondy)
for R1
Mr.M.Nirmal Kumar for R2

ORDER

The writ petition is filed for the following relief :

" To issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned Letter No.PCSM/Estt/5-10/2020/1595 dated 22.05.2020 issued by the second respondent and quash the same as being illegal, arbitrary and unconstitutional and consequently direct the respondents to give due livelihood protection to the employees of the second respondent Mills with all attendant benefits including monetary benefits".

2. The petitioner-Union is a registered Trade Union with Registration No.1788/RTU/2015. It represents the employees of the second respondent-Mill. The second respondent-Mill was started in 1984 with 900 workers initially, whose workers strength had later dwindled down to 288 in the year



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2018. The Sugar Mill was under the control and governance of Government of Puducherry. Due to non-modernization of the Mill and other factors like sugarcane pricing etc., the functioning of the second respondent Mill slowly came to an halt, owing to which, the second respondent was not able to pay the monetary benefits namely earned wages, bonus, earned leave wages etc., to its workers from March 2017 to February 2018. Even the gratuity amount to the retired employees were not settled by the second respondent. In this circumstances, the second respondent had approached the first respondent seeking permission to lay-off the employees during February 2018. This was objected to by the petitioner-Union. However, the first respondent granted permission to lay-off, initially for three months, which was later continued, by filing subsequent applications seeking extension of lay off time. The respondent-Mill failed to pay the mandatory lay-off wages to its employees, which they are lawfully entitled to from March 2018 till April 2021. According to the petitioner-Union, the salary dues and lay off payment works out to Rs.22 crores. To overcome this unfair situation, the Puducherry Government decided to lease out the Mill to private parties. But this move had to be aborted on account of employees filing a writ petition before this Court.



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3. Pursuant to the permission granted by the Puducherry Government, the second respondent-Mill issued the impugned letter dated 22.05.2020, *inter alia*, declaring to continue the lay off of 70 workmen out of 96 workmen employed in the Mill, with effect from 11.05.2020. This was challenged by the petitioner-Union.

4. The petitioner-Union would contend that the impugned letter of the second respondent is illegal and contrary to the scheme of Industrial Disputes Act, as there is no time limit fixed in the said impugned lay-off order. In this regard, the petitioner-Union has submitted representations to the respondents on 29.06.2020 and 20.07.2020, wherein they had also required the Sugar Mill to revise and refix the salary of the workers from 01.04.2013. However, the said representations were not considered by the respondents. Hence, the present writ petition.

5. The learned counsel appearing for the second respondent would submit that the order dated 01.07.2021 in W.P.Nos.389 and 403 of 2021 has been given effect to and the respondents are making payment at a rate higher



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than the one directed by the order dated 01.07.2021. The respondents would also submit that in compliance to the said order passed in W.P.Nos.389 and 403 of 2021, they have also disbursed the service benefit arrears to the the employees post March 2023, in addition to making payment of lay off compensation, as directed by this Court.

6. Heard the learned counsels appearing on either side. Admittedly W.P.Nos.389 and 403 of 2021 are filed for a direction to the respondents therein, to consider and pay wages, statutory compensation and service benefits which are due payable to the workmen and thereafter proceed with the lease of the Mill. It is relevant to extract the operative portion of the order dated 01.07.2021 in W.P.Nos.389 and 403 of 2021, which reads as under :

“12. Deprivation of wages amounts to violation of Articles 21 and 300 (A) of the Constitution and, the wages payable to the employees cannot be retained by the employer, as it amounts to misappropriation of funds due to be paid to the employees by the employer. Section 25(K) will be applicable to the case, where more than 100 workmen are employed on an average per working day for the preceding twelve months and the total number of workmen sought to be laid off was only 70 in the second occasion, and therefore, the Chapter V-B may not be



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*applicable to the subsequent lay off. However, it is an admitted fact that there is lay off and that the third respondent Mill is a wing of the Government. Pendency of the Industrial Dispute raised by the Union cannot be quoted as a bar to entertain the writ petition, as it is not an efficacious and alternative remedy, and even for admitted amount, the issues are pending for decades. The Government, even without adjudication will have to order revenue recovery in terms of Section 33-C(1) read with 11 B Industrial Dispute Act 1947, in the light of the judgment of the Apex Court in the case of **Fabril Gasosa vs. Labour Commissioner**, reported in (1997) 3 SCC 150. The entire amount shall be paid by the Management, within a period of four months from the date of receipt of a copy of this order, failing which, it will carry interest at the rate of 6% from the date of this order.*

13. It is made clear that if the amount is not paid and a complaint is made to that effect, the Government is directed to sanction prosecution against the Officials, falling under Section 32 of the I.D.Act, 1947, in consonance with Section 34 of the I.D.Act, 1947 for a suitable decision by the Competent Court for violation of the provisions of Section 25-C of the I.D.Act, 1947 in terms of Section 31 (2) of the I.D.Act, 1947. Adverse remarks shall also be entered into the Service Register of the Officials, who are responsible for payment of compensation under the relevant provisions of the I.D.Act, 1947. This Court, at this moment, wants to point out that this is going to be a peculiar circumstance of the case, where the Government has no other option, but to sanction prosecution against its own



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Officials for non-compliance of the orders of this Court.

14. In view of what is stated herein-above, these Writ Petitions are ordered accordingly. No costs. Consequently connected Miscellaneous Petitions are closed"

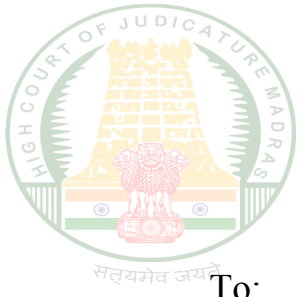
7. The facts of the instant case are also similar to the one relied upon by the counsel in W.P.Nos.389 and 403 of 2021. Therefore, the petitioner is entitled to the very same relief as set out in W.P.Nos.389 and 403 of 2021. Accordingly, the above writ petition is disposed of in terms of the directions issued by this Court in W.P.Nos.389 and 403 of 2021. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No

Neutral Citation : Yes / No

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To:
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- 1.The Secretary,
Government of Puducherry
Labour Department
Second Floor, Labour Complex
Gandhi Nagar, Puducherry - 605 009.
- 2.The Managing Director
The Pondicherry Co-operative Sugar Mills Ltd.,
Lingareddy Palayam, Katterikuppam
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P.T. ASHA, J.

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