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W.P.No.10171 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :04.06.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.10171 of 2021
and W.M.P.No.10798 of 2021

1. 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.

3. The Industrial Tribunal cum Labour Court
Rep. by its Presiding Officer, Puducherry,
Puducherry Court Complex,
Puducherry – 605 001. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records relating to the impugned G.O.Rt.No.59/AIL/LAB/T/2020 dated 28-05-2020



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issued by the first respondent and quash the same in so far as referring the issue relating to payment of earned salary and lay-off wages to the employees of the second respondent, to the Industrial Tribunal, Puducherry, as being illegal, arbitrary and unconstitutional.

For Petitioner : Mr. C K Chandrasekhar

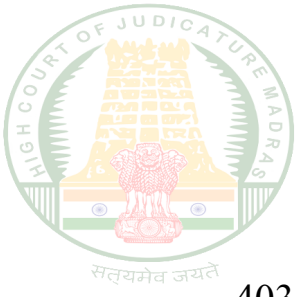
For Respondents – 1 & 3: Dr.Ramasamy
Additional Government Pleader
(Puducherry)

For Respondent – 2 : Mr. Nirmal Kumar
Government Advocate
(Puducherry)

ORDER

This Writ Petition is filed for the following relief:

“To issue a Writ of Certiorari calling for the records relating to the impugned G.O.Rt.No.59/AIL/LAB/T/2020 dated 28-05-2020 issued by the first respondent and quash the same in so far as referring the issue relating to payment of earned salary and lay-off wages to the employees of the second respondent, to the Industrial Tribunal, Puducherry, as being illegal, arbitrary and unconstitutional.”



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2. This Court, vide order dated 01.07.2021 in W.P.Nos.389 and 403 of 2021, had passed the following order:

“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 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



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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



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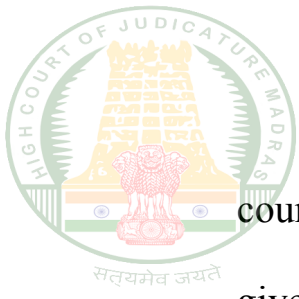
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of the Officials, who are responsible for payment of compensation under the relevant provisions of the I.D.Act, 1947. This Court, at this moment, wants to point out that this is going to be a peculiar circumstance of the case, where the Government has no other option, but to sanction prosecution against its own 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.

3. In the case on hand also, the petitioner in the prayer portion has sought for both earned salary and lay-off charges. However, nowhere in the affidavit is there any mention about the earned salary. On the contrary, the petitioner has only talked about the lay-off charges.

4. It is also brought to the notice of the Court by the learned



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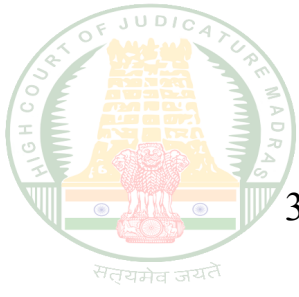
counsel for the respondents that the above referred order has also been given effect to. In fact in many cases, the respondents are paying a higher rate than the one directed in the order dated 01.07.2021.

5. Taking into consideration the order passed in W.P.Nos.389 and 403 of 2021 which would enure to the facts of the case, this Writ Petition is disposed of on the same lines. No costs. Consequently, connected miscellaneous petition is closed.

04.06.2025

Index: Yes/No
Speaking order/non-speaking order
Neutral Citation: Yes/No
srn
To,

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,
Puducherry – 605 502.



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3. The Presiding Officer,
Industrial Tribunal cum Labour Court
Puducherry,
Puducherry Court Complex,
Puducherry – 605 001.



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P.T.ASHA, J.,

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