
(2011) 01 MAD CK 0277

In the Madras High Court

Case No : Writ Petition No. 3240 of 2007

Subramaniya Siva Cooperative Sugar Mills Worker Welfare
Union and

APPELLANT

Vs

The Commissioner of Sugars and Others

RESPONDENT

Date of Decision : 19-01-2011

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2011) 3 LLJ 716

Hon'ble Judges : M. Jaichandren, J

Bench : Single Bench

Advocate : Balan Haridoss, for J. Muthukumaran, for the Appellant; S. Gopinathan, Additional Government Pleader for R 1, R 2 and R 4 and G. Thilakavathi, for R 3, for the Respondent

Judgement

M. Jaichandren, J.—The above writ petitions have been filed by the Petitioner Unions stating that they are espousing the collective cause of their members, who are Non-Muster Roll workers in the third Respondent Sugar Mills. They have been working in the Sugar Mills for a number of years, continuously, both in the skilled and in the semi-skilled works. The members of the Petitioner Unions have been working, continuously, without any interruption, except with artificial breaks. However, their services had not been regularised, even though they had completed 480 days of continuous service, during the sugarcane crushing seasons, in spite of the several representations made on their behalf, for the regularisation of their services.

2. It had also been stated that the Government of Tamil Nadu had issued orders, in G.O. Ms. No. 1641, Labour Department, dated 25.11.1986, regarding the regularisation of the services of the employees, who had been appointed on daily basis in the sugar mills, which are under the control of the Director, Department of Sugars. The Government had also ordered that the services of all the employees appointed through the employment exchanges, from 1.1.1978, should

be regularised. With regard to the absorption of casual workers in the regular vacancies arising in the Cooperative Sugar Mills, the state Government, in its letter No. 11358/E/87-5, Employment Services, dated 21.12.1987, had issued certain orders.

3. It had also been stated that the state Government, in its order, in G.O. Ms. No. 851, Industries Department, dated 29.12.1987, had permitted the absorption of certain employees in the Perambalur Sugar Mills, even though they had been appointed without reference to the employment exchanges concerned. The Government had also granted the necessary relaxation of the relevant rules relating to the upper age limit and the sponsorship of the names by the concerned employment exchanges.

4. It had also been stated that this Court, by its order, dated 13.2.2002, made in W.P. No. 1803 of 2000, had issued certain directions, following the decision of the Division Bench of this Court, dated 21.9.2001, in W.A. No. 211 of 1998 and in W.P. No. 13112 of 1993, to the Management of the Sugar Mills, with regard to the maintenance of the necessary registers relating to the services of the employees and with regard to regularisation of their services. However, in spite of several representations made by the Petitioner Unions, the Respondent Sugar Mills had not taken necessary action to regularise the services of the members of the Petitioner Unions. In such circumstances, the Petitioner Unions had filed these writ petitions before this Court, under Article 226 of the Constitution of India.

5. At this stage of the hearing of the writ petitions, the learned Counsel appearing for the Petitioner Unions had submitted that a proposal had been sent to the Government of Tamil Nadu to consider the claims of the members of the Sugar Mills Workers.

6. He had also submitted that this Court may be pleased to direct the Government of Tamil Nadu, to take a decision on the proposal received by it, with regard to the regularisation of the employees of the Sugar Mills, expeditiously.

7. The learned Counsel appearing for the Respondents had submitted that the members of the Petitioner unions, who are engaged in their respective works in the third Respondent Sugar Mills, would be allowed to continue to render their services. However, the third Respondent Sugar Mills may be permitted to fill up the vacancies in the various posts, for which the members of the Petitioner Unions would not be eligible or entitled to be appointed, by way of direct recruitment. She had also submitted that the continuance of the members of the Petitioner Unions in the employment of the third Respondent Sugar Mills should be made subject to the final decision that may be taken by the Government of Tamil Nadu.

8. In view of the averments made in the affidavits filed in support of the writ petitions and in view of the submissions made by the learned Counsels appearing

for the parties concerned, the Government of Tamil Nadu, the fourth Respondent, in W.P. No. 3240 of 2007, is directed to consider the proposal for the regularisation of the employees of the third Respondent sugar mills, in W.P. No. 3240 of 2007 and W.P. No. 7976 of 2006, and pass appropriate orders thereon, within a period of three months from the date of receipt of a copy of this order.

9. The third Respondent Sugar Mills shall continue to engage the members of the Petitioner Unions, in their respective works, until a final decision is taken by the state Government, with regard to the regularisation of their services. In the meantime, the Respondents would be at liberty to fill up the vacancies in the various posts, to which the members of the Petitioner Unions would not be eligible or entitled to, by way of direct recruitment.

10. The writ petitions stand disposed of accordingly. No costs. Connected M.P. No. 1 of 2007, W.V.M.P. No. 2 of 2007, W.P.M.P. No. 8868 of 2006, W.V.M.P. No. 223 of 2007, W.P.M.P. No. 917 of 2009 and M.P. No. 1 of 2010 are closed.