

E.Kumar Vs. Secretary of Tamil Nadu Workers Welfare Board

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Court : Chennai

Decided On : Mar-05-2013

Judge : P.R.Shivakumar

Appellant : E.Kumar

Respondent : Secretary of Tamil Nadu Workers Welfare Board

Judgement :

IN THE HIGH COURT OF JUDICATURE AT MADRAS DATED:

05. 03.2013 CORAM THE HONOURABLE MR. JUSTICE P.R.SHIVAKUMAR
W.P.No.32238 of 2007 Thiru.E.Kumar .. Petitioner -Vs- The Secretary Tamil Nadu
Workers Welfare board No.8, Valluvar Kottam Nungambakkam, Chennai 34 ..
Respondent Writ petition filed under article 226 of the Constitution of India to issue
a Writ of Certiorarified Mandamus calling for the records dated 14.09.2006 relating
to the cancellation of the petitioner's membership under the Tamilnadu Manual
Workers (Construction Workers) Welfare Scheme 1994 and quash the same and
direct the respondent herein to restore his membership of the Union. For Petitioner
: Mr.P.Vedavallee For Respondent : Mr.A.Thirumaran ----- ORDER The petitioner
herein got registered with the Tamil Nadu Workers Welfare Board constituted
under the Tamil Nadu Workers (Regulation of Employment and conditions of
Work) Act, 1982 for availing the benefits of the Tamil Nadu Mannual Workers
(Construction Workers) Welfare Scheme, 1994. His registration as a beneficiary
under the scheme has been cancelled by the impugned order of the respondent
dated 14.09.2006 on the premise that he secured his registration not through any

one of the persons or institutions referred to in Section 5 of the Tamil Nadu Mannual Workers (Construction Workers) Welfare Scheme, 1994. The said order is impugned in the present writ petition seeking issuance of a writ of certiorarified mandamus to quash the said order and direct the respondent to restore his membership. 2.The arguments advanced by Mrs.P.Vedavallee, learned counsel for the petitioner and Mr.A.Thirumaran, learned counsel for the respondent are heard.

3. It is a fact that the petitioner got his name registered as a beneficiary under the Tamil Nadu Manual Workers (Construction Workers) Welfare Scheme, 1994 with Registration No.01-232 dated 27.04.1995. Admittedly, the said registration was secured through "Thozilalar Veettuvassathi Matrum Thozhilnutpa Valarchi Mayyam", which was an unregistered Union at the time of his application for registration as a member of the said scheme. Since the said union did not come under any one of the categories mentioned in Section 5 of the Scheme, the registration of the petitioner with the Board under the said scheme was sought to be cancelled by issuing a show-cause notice dated 26.06.2006 informing him that he had got admitted as a member of the scheme through "bjhHpyhsh; tPl;L trjp kw;Wk; bjhHpy; El;g tsh;r;rp ikak;", which was not a registered trade union and which did not come under any one of the categories mentioned in Section 5 of the Tamil Nadu Mannual Workers (Construction Workers) Welfare Scheme, 1994. For the show-cause notice, the petitioner has given a reply on 14.08.2006 contending that though the Union through which he got admitted as a member of the Scheme under the Board was not a registered union at the time of his registration, later on he became a member of "Mahakavi Bharathiyar Kattida Thozhilalar Sangam", a registered trade union and hence, his registration should not be cancelled. After considering the said representation, the respondent has passed an order canceling the registration made in 1994 on the ground that at the time of registration, he was sponsored neither by a registered trade union nor by any one of the recognized bodies or members found mentioned in Section 5 of the Scheme.

4. When it is an admitted case of the petitioner himself that the Union through which he got admitted as a member of the scheme was not a registered union at

the time of his application, there is no need to give further opportunity to prove that the Union which sponsored the petitioner as a member of the scheme was a registered union. What the petitioner had sought for in his reply to the show-cause notice was that though the registration was through a body which could not have been recognized as one of the institutions, bodies or members mentioned in Section 5 of the Tamil Nadu Mannual Workers (Construction Workers) Welfare Scheme, 1994, the registration should be ratified because of his becoming a member of another trade union, which came to be registered several years after his registration as a member of the scheme.

5. From the documents produced by the petitioner, it is seen that the petitioner became a member of "Mahakavi Bharathiyar Kattida Thozhilalar Sangam" much later. Therefore, there is nothing wrong in the order passed by the respondent cancelling the membership of the petitioner as a beneficiary under the scheme on the ground that registration was secured through an unregistered body. Therefore, this Court comes to the conclusion that challenge made to the impugned order is bound to be rejected as untenable. If at all, the petitioner has become eligible to be admitted as a member of the scheme pursuant to his becoming a member of a registered trade union, namely "Mahakavi Bharathiyar Kattida Thozhilalar Sangam" which incident occurred several years after the registration of the petitioner under the scheme, in stead of seeking ratification and validation of the registration which was invalid at the inception, the petitioner ought to have applied for fresh registration and even now the petitioner can do it, if so advised.

6. For the above above said reasons, this Court comes to the conclusion that the writ petition fails and the same deserves dismissal. Accordingly the writ petition is dismissed. However, it is made clear that the petitioner may seek registration of his name afresh through the registered Trade Union of which he claims to have become a member. No costs. Consequently, the connected miscellaneous petitions are closed. gpa To The Secretary Tamil Nadu Workers Welfare board No.8, Valluvar Kottam Nungambakkam Chennai 34