

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

FRIDAY, THE 6TH DAY OF NOVEMBER 2015/15TH KARTHIKA, 1937

WP(C).No. 5553 of 2012 (T)

AGAINST THE AWARD IN ID 19/2009 of LABOUR COURT, KANNUR.

PETITIONER:

THE RESEARCH DIRECTOR,
CENTRAL COFFEE RESEARCH INSTITUTE,
COFFEE RESEARCH STATION, O.P. BELEHONNUR,
CHIKMAGALUR DISTRICT, KARNATAKA STATE

BY ADVS.SRI.E.K.NANDAKUMAR (SR.)
SRI.M.GOPIKRISHNAN NAMBIAR
SRI.P.GOPINATH
SRI.P.BENNY THOMAS
SRI.K.JOHN MATHAI

RESPONDENTS:

1. LABOUR COURT,
KANNUR 670 001.

2. THE DISTRICT LABOUR OFFICER,
OFFICE OF THE DISTRICT LABOUR OFFICER WAYANAD.
KALPETTA NORTH, WAYANAD DISTRICT 673 122.

3. THE GENERAL SECRETARY,
WAYANAD ESTATE LABOUR UNION (CITU).
CENTRE FOR INTERNATIONAL TRADE UNION,
VYTHIRI 673 576.

ADDL.4. K.K.SHANIL

AGED 26 YEARS, S/O. LATE K.K.ACHUTHAN,
RESIDING AT KAYALVAKKATHU VEEDU, PERUMTHATTA,
CHUNDALE.P.O., WAYANAD-673 123.

ADDL. R4 IS IMPEADED AS PER ORDER
DATED 12/06/2012 IN IA NO.7505/2012.

R1 & 2 BY GOVERNMENT PLEADER SRI. T.J. MICHAEL
R3-R4 BY ADV. SRI.V.MANOJ KUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 06-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

W.P., (C) NO.5553 OF 2012

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 - TRUE COPY OF THE COMPLAINT DATED 17/11/2008 ADDRESSED BY THE SECRETARY OF THE 3RD RESPONDENT UNION TO TO THE DISTRICT LABOUR OFFICER.

EXT.P2 - TRUE COPY OF A NOTICE OF CONCILIATION DATED 15/1/2009 ISSUED BY THE DISTRICT LABOUR OFFICER, WAYANAD.

EXT.P3 - TRUE COPY OF THE ORDER OF REFERENCE DATED 18/8/2009 ISSUED BY THE GOVERNMENT OF KERALA REFERRING THE DISPUTE TO THE LABOUR COURT, KANNUR.

EXT.P4 - TRUE COPY OF THE AWARD OF the 1ST RESPONDENT LABOUR COURT IN ID.NO.19/2009 DATED 22/10/2010.

EXT.P5 - TRUE COPY OF AN ORDER DATED 24/7/2009 ISSUED BY THE MINISTRY OF LABOUR, GOVERNMENT OF INDIA REFERRING A DISPUTE BETWEEN A UNION FUNCTIONING IN THE STATE OF KARNATAKA AND WORKMEN ENGAGED AT A RESEARCH STATION IN CHETTALI, TO THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE.

//true copy//

P.S. to Judge

K. HARILAL, J.

W.P. (C) No.5553 of 2012

Dated this the 6th day of November, 2015

JUDGMENT

The petitioner is the Research Director of the Coffee Research Institute, Chickmagalur, which is set up by the Coffee Board, a statutory authority constituted under the provisions of the Coffee Act, 1942 and functioning under the authority of the Central Government. The Board has set up Research Station at Chundale in Wayanad District. The additional 4th respondent was a temporary employee engaged in the said Station on compassionate ground, pursuant to the death of his father, a permanent Mazdoor in the said Station. When the petitioner stopped engaging the 4th respondent, the 3rd respondent Union raised a dispute before the District

Labour Officer, Wayanad, and on the failure of resolution of the dispute there, the matter was referred for adjudication by Ext.P3 order to the 1st respondent. The 1st respondent passed an ex parte award against the petitioner by Ext.P4 order directing the petitioner to reinstate the 4th respondent in service with full back wages from 18/11/2008 until reinstatement. This order is challenged under Art.226 of the Constitution of India, in this writ petition.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondents.

3. The learned counsel for the petitioner mainly canvassed to point that the 1st respondent has no jurisdiction to entertain a dispute between the petitioner and the 4th respondent, as the Coffee Board is constituted for the development of coffee industry under the control of the Central Government. A dispute between an industry carried on by or under the authority of the Central Government is the Central Government and the 1st respondent has no jurisdiction

to entertain a dispute between an employee and an establishment working under the supervision and control of the Central Government. So also, since the petitioner's establishment is constituted by the Central Government under the Central Act, the State Government has no jurisdiction to entertain the dispute arising between the petitioner and its workman or refer the matter for adjudication.

4. Per contra, the learned counsel for the 4th respondent advanced arguments to justify the authority of the 1st respondent to pass the impugned order.

5. The short question that arises for consideration in this writ petition is, whether the 1st respondent has jurisdiction to entertain the dispute between the worker and the management of the petitioner's establishment, which is constituted and controlled by the Central Government. It is the case of the petitioner that the Coffee Board, being an establishment, constituted under the Coffee Act, 1942, and as a

result, an industry carried on by or under the authority of the Central Government, the State Government has no jurisdiction to entertain the dispute arising between the petitioner's establishment and its workmen or refer the matter for adjudication under the provisions of the Industrial Dispute Act. The “appropriate Government” in respect of an industrial dispute concerning any industry carried on by or under the authority of the Central Government is the Central Government as per Sec.2(a) of the Industrial Disputes Act. Indisputably, the petitioner's establishment, the Coffee Board is constituted under the provisions of the Coffee Act, 1942 and functioning under the supervision and control of the Central Government. Therefore, the Central Government is the competent authority to refer the industrial dispute to the Central Government Industrial Tribunal-cum-Labour Court and that court alone has jurisdiction to entertain the dispute between the petitioner's establishment and the 4th respondent.

6. In the above view, I am inclined to set aside Ext.P4 award which was passed without jurisdiction and I do so. It is made clear that this judgment will not stand in the way of raising or referring the industrial dispute afresh in accordance with law.

This writ petition is allowed accordingly, with the above observations.

Sd/-

(K. HARILAL, JUDGE)

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P.S. to Judge