

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 30TH DAY OF MARCH 2015/9TH CHAITHRA, 1937

W.P.(C).No.5722 of 2014 (M)

PETITIONER(S):-

M/S.NATIONAL TEXTILE CORPORATION (MKTG DIVN.) EMPLOYEES ASSOCIATION,
REG.NO.187/80,
KOLLAM-681001 REP. BY ITS GENERAL SECRETARY,D.JOSE.

BY ADV. SRI.PAULSON C.VARGHESE.

RESPONDENT(S):-

1. REGIONAL LABOUR COMMISSIONER (CENTRAL),
OFFICE OF THE REGIONAL LABOUR COMMISSIONER (CENTRAL),
KENDRIYA SHRAMSADAN,
OLIMUGHAL, KAKKANAD, KOCHI-682 030.

2. M/S.NATIONAL TEXTILE CORPORATION LIMITED,
RETAIL MARKETING DIVISION,
35-B, SOMASUNDARAM MILLS ROAD,
COIMBATORE-641 009, REPRESENTED BY ITS GENERAL MANAGER.

R1 BY ASSISTANT SOLICITOR GENERAL OF INDIA SRI.N.NAGARESH.
R2 BY ADVS. SRI.V.KRISHNA MENON
SMT.JEENA JOSEPH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
30-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

WP(C).No.5722 of 2014 (M)

APPENDIX

PETITIONER(S)' EXHIBITS:-

- EXT.P1 - TRUE COPY OF THE COMPLAINT DATED 08-06-2013 SUBMITTED BY THE MEMBERS OF THE PETITIONER UNION BEFORE THE FIRST RESPONDENT.
- EXT.P2 - TRUE COPY OF THE REQUEST DATED 24-01-2014 SUBMITTED BY THE PETITIONER BEFORE THE FIRST RESPONDENT.

RESPONDENT(S)' EXHIBITS:-

- EXT.R1(a) TRUE COPY OF THE NOTICE DATED 08.08.2013.
- EXT.R1(b) TRUE COPY OF THE NOTICE DATED 29.08.2013.
- EXT.R1(c) TRUE COPY OF THE NOTICE DATED 07.10.2013.
- EXT.R1(d) TRUE COPY OF THE MINUTES OF JOINT DISCUSSIONS HELD ON 06.11.2013.

vku/-

[true copy]

K. Vinod Chandran, J.

W.P(C) No.5722 of 2014-M

Dated this the 30th day of March, 2015

JUDGMENT

The petitioner is a Trade Union of the employees of the 2nd respondent, who is aggrieved with the closure, of the conciliation proceedings, made by the 1st respondent without referring the same for adjudication under the Industrial Disputes Act, 1947 [for brevity "ID Act"].

2. The claim raised by the petitioner-Union was with respect to certain allowances which, according to them, they are entitled to. The 2nd respondent appeared before the Conciliation Officer and disputed such claim. However, later on, as pointed out by the learned Standing Counsel for the 2nd respondent, the petitioner-Union themselves submitted before the Regional Labour Commissioner (Central), the 1st respondent herein, that they would approach the Labour Court under Section 33C(2) of the ID Act. Specific reference is made to paragraph 6 of the counter affidavit of the 1st respondent, where it is stated that the request for closing the dispute was made by the Union itself on the ground that the claim made by them is on the basis of a

settlement of 1986. In such circumstance, the closure of the dispute cannot be found fault with.

3. However, the learned counsel appearing for the petitioner-Union fairly submits that it was a mistake on the part of the Union and no claim under Section 33C(2) of the ID Act would lie, since the demand of the Union cannot merely be computed in terms of money and has to be considered as a full-fledged dispute. In such circumstance, it is evident that the Union proceeded on the wrong premise before the Conciliation Officer. The Union is permitted to make a fresh application before the 1st respondent, in which event, the 1st respondent shall issue notice to the 2nd respondent and initiate conciliation proceedings. If conciliation cannot be brought out, then proceedings for reference under Section 10 of the ID Act would have to be followed.

The writ petition is disposed of with the above observation.

Sd/-
K. Vinod Chandran,
Judge

vku/

[true copy]