

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 6TH DAY OF MARCH 2015/15TH PHALGUNA, 1936

WP(C).No. 17297 of 2010 (J)

PETITIONER(S):

**CEPZ WORKERS UNION,17/183,COCHIN
UNIVERSITY PO, KOCHI-22, REPRESENTED BY ITS
GENERAL SECRETARY M.K.BINU, S/O.KARUNAKARAN, AGED
33 YEARS, MALAYIL PARAMBIL HOUSE, VAZHAVARAKARA
KATTAPPANA VILLAGE, IDUKKI DISTRICT.**

BY ADV. SRI.C.P.PEETHAMBARAN

RESPONDENT(S):

- 1. STERIPHARM ,REPRESENTED BY THE MANAGER
ADMINISTRATION, PLOT NO.16A, WING-1
BLOCK-B, 3RD FLOOR, COCHIN SPECIAL ECONOMIC ZONE
KAKKANAD, COCHIN-30.**
- 2. THE PRESIDING OFFICER,INDUSTRIAL
TRIBUNAL, ALAPPUZHA.**

**R,R1 BY ADV. SRI.K.A.ABRAHAM
R,R1 BY ADV. SRI.BIJU MARTIN
R BY GOVERNMENT PLEADER SRI. BIJU MEENATTOOR**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 06-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONERS EXHIBITS:

- EXT.P1 COPY OF THE NOTICE DATED 18.10.2002 ISSUED BY THE 1ST
RESPONDENT TO THE PETITIONER.
- EXT.P2 COPY OF THE SETTLEMENT.
- EXT.P3 COPY OF THE PETITION FILED U/S 12 OF THE I.D ACT BEFORE THE
DLO, BY THE UNION.
- EXT.P4 COPY OF THE WRITTEN STATEMENT FILED BY THE RESPONDENT
COMPANY IN I.D NO. 13/2006.
- EXT.P5 COPY OF T HE AWARD DATED DATED 20.05.2009 OF INDUSTRIAL
TRIBUNAL, ALAPPUZHA.

RESPONDENTS EXHIBITS: NIL

// TRUE COPY //

PA to Judge

SB

K. VINOD CHANDRAN, J.

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W.P.(C) No.17297 of 2010 - J

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Dated this the 6th day of March, 2015

J U D G M E N T

The Union is before this Court aggrieved by the award passed by the Industrial Tribunal, Alappuzha, answering the reference made by the appropriate Government against the workman. The reference made was with respect to the entitlement to closure compensation for the period from 11.07.2002 to 01.01.2003. Immediately it has to be noticed that closure compensation as contemplated in Section 25FFF is notice and compensation as provided in Section 25F and not for a period. Period is relevant in not so far as computing the service period for determining compensation. There can be no closure compensation claimed for the period in which an establishment remained closed.

2. In any event, the claim made before the Labour Court, on a substantial departure from that raised before

the appropriate Government; was for wages between 11.07.2002 to 01.01.2003. The Tribunal found that on a charter of demands being made by the Union and a negotiation not fructifying in a settlement, the management had issued a notice proposing to close down the management company w.e.f. 11.07.2002. However, it is also noticed that there was no closure on 11.07.2002, since, the notice remained as a mere proposal. The workmen continued in employment and received their wages till 15.10.2002, even as per their own admission. An alternate contention was taken that the establishment was closed from 15.10.2002. However, the muster roll produced by the management indicated that, the establishment was continued, the workmen had been employed therein and the payment of wages too was evidenced.

3. The Tribunal rightly concluded that, there was no work stoppage or closure even subsequent to 15.10.2002. The Union merely relied on Ext.W5 settlement,

wherein, there was a mention of closure effected from 15.10.2002 and a further stipulation that the factory will be re-opened from 01.01.2003. The shifting stand of the Union was noticed insofar as their initial claim of closure from 11.07.2002 being shifted to 15.10.2002 and then again to 11.07.2002. The Industrial Tribunal, according to this Court rightly dismissed the claim made. Further the reference was for determination of justifiability of closure compensation, for a period. Before the Labour Court the claim made was for wages during that period. It is trite that the Labour Court has to act within the bounds of the reference order. No interference is warranted to the award.

The writ petition would stand dismissed.

Sd/-
K. VINOD CHANDRAN,
JUDGE

SB

// true copy //

P.A to Judge