

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 19TH DAY OF MARCH 2015/28TH PHALGUNA, 1936

WP(C).No. 29392 of 2009 (T)

PETITIONER(S):

1. INDIAN NATIONAL TRADE UNION CONGRESS,
THALIAMPARA UNIT, KARUVANCAUD P.O., KUNDUKAD
THRISSUR, REPRESENTED BY ITS PRESIDENT
SUNDARAN KUNNATHULLY.
2. N.M.JOSE,
NIRAPPEL, KARUVANCAUD P.O., KUNDUKAD
THRISSUR.
3. M.N.THILAKAN,
MUKULAYIL VEEDU, KARUVANCAUD P.O., KUNDUKAD
THRISSUR.

BY ADV. SRI.P.RAMAKRISHNAN

RESPONDENT(S):

1. THE DISTRICT LABOUR OFFICER,THRISSUR.
2. CITU THALIYAMPARA UNIT,
REPRESENTED BY ITS SECRETARY C.K.CHANDRAN
CHATHAT VEEDU, VETTELAPPARA, KUNDUKKAD
THRISSUR.
3. AITUC THALIAMPARA UNIT,
REPRESENTED BY ITS SECRETARY K.R.GIRIJAN
KURUMPATH PARAMBIL, KARUVANCAUD P.O., THRISSUR.

R BY GOVERNMENT PLEADER SRI MANOJ KUNJACHAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19-03-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS EXHIBITS:-

EXT.P1: TRUE COPY OF THE IDENTITY CARD ISSUED TO THE 2ND PETITIONER UNDER RULE 26A (3) OF THE KERALA HEAD LOAD WORKERS RULES.

EXT.P2: TRUE COPY OF IDENTITY CARD ISSUED TO THE 3RD PETITIONER UNDER RULE 26A (3) OF THE KERALA HEAD LOAD WORKERS RULES

EXT.P3: TRUE COPY OF THE SETTLEMENT DATED 21.06.2008

RESPONDENTS EXHIBITS:- NIL

TRUE COPY

P.A TO JUDGE

jma

K. VINOD CHANDRAN, J

W.P(C) No. 29392 of 2009

Dated this the 19th day of March, 2015

J U D G M E N T

The petitioner's specific contention raised in the writ petition against Ext.P3 settlement is that it is not a settlement as envisaged under Section 21 of the Kerala Headload Workers Act, 1978. It is contended that a dispute under the Headload Workers Act has to be initially conciliated by the Assistant Labour Officer as envisaged under sub section (1) of Section 21. As per sub section (2), the 1st respondent is thereafter duty bound to hold conciliation proceedings and investigate the same and all matters affecting the merit of the case. The 1st respondent also has to forward a copy of the conciliation proceedings to the Regional Labour Commissioner, who is the

appellate authority. The procedure as laid down has not been complied with, is the specific contention. It is also contended that neither the District Collector or the RDO or Deputy Superintendent of Police are authorities under the Headload Workers Act, and hence, their participation is not proper.

2. Evidently, the settlement is one signed by the District Labour Officer as is indicated in Ext.P3 settlement. The representatives of the Unions were also present. The 1st petitioner was not a party. It is not clear as to whether the 1st petitioner was also operating within the area. In any event, three Unions were participated and seven representatives attended. The settlement was that, as per the existing strength of each Union the identity cards will be issued to such number of members of each unions and then for the balance work, if any, even the headload workers from outside the area could be participated. This court does not find any infirmity in the

decision; so arrived at.

3. The petitioner seems to be aggrieved by the fact that the other workers from outside the area would be cooperated. Necessarily if there is loading and unloading work, and it is a scheme covered area, the workers to be permitted to work in the area would be persons who are registered under the Rules and who have been issued with identity cards under the Scheme. The decision to participate workers from outside the area, is only when there is excess work. That too would have to be of persons registered under the Act and Scheme. This Court does not find anything in Ext.P3 settlement which could be termed as violative of the provision of the Act and the Scheme.

4. The fact that the District Collector, the Revenue Divisional Officer and the Deputy Superintendent of Police were participated in the enquiry does not at all make the

settlement one outside the scope of Section 21. Evidently, a law and order issue would have arisen in the area and that would have required the presence of the District Collector, Deputy Superintendent of Police and the RDO. The participation of District Administration in the conciliation proceedings to bring about a conciliated settlement cannot be found fault with by this Court. In fact, the district administration has, at least in this case, arisen to the need of the occasion and participated in the conciliation proceedings so as to bring quietus to the issue on amicable terms.

The writ petition is found to be devoid of merit and the same is dismissed.

Sd/-
(K. VINOD CHANDRAN, JUDGE)

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P.A to Judge