

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.28420 of 2014 (B)

PETITIONER(S):-

M/S.SREE SAKTHI PAPER MILLS LTD.,
'SREE KAILAS', 39/2724 - A, PALIAM ROAD,
KOCHI - 682 016,
REP. BY ITS DIRECTOR (OPERATIONS) SRI.N.PURUSHOTHAMA PRABHU.

BY ADVS.SRI.R.LAKSHMI NARAYAN
SMT.R.RANJINI.

RESPONDENT(S):-

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1. THE STATE OF KERALA,
REP. BY ITS SECRETARY,
LABOUR AND SKILLS (A) DEPARTMENT, GOVT. OF KERALA,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695 001.
 2. LABOUR COMMISSIONER, THIRUVANANTHAPURAM - 695 001.
 3. THE REGIONAL JOINT LABOUR COMMISSIONER,
ERNAKULAM, CIVIL STATION, KAKKANAD - 682 030.
 4. DEPUTY LABOUR COMMISSIONER,
ERNAKULAM, CIVIL STATION, KAKKANAD - 682 030.
 5. DISTRICT LABOUR OFFICER,
ERNAKULAM, CIVIL STATION, KAKKANAD - 682 030.
 6. SREE SAKTHI PAPER MILLS EMPLOYEES UNION CITU,
AKG MANDIRAM, M.O.ROAD,
ALUVA - 683 102, REP. BY ITS PRESIDENT V.SALIM.

7. ERNAKULAM DISTRICT INDUSTRIAL LABOUR ASSOCIATION,
(INTUC - (1) REG.NO.7-79/89,
SREE SAKTHI PAPER MILLS UNIT,
INTUC (1) OFFICE, MUPATHADOM
ALUVA - 2, REP. BY ITS PRESIDENT K.K.JINNAS - 683 102.

R1 TO R5 BY GOVERNMENT PLEADER SRI.R.RANJITH.
R6 & R7 BY ADVS. SRI.PAULSON C.VARGHESE
SMT.D.DIVYA JOTHIS.

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

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P-1: THE PHOTOCOPY OF THE STANDING ORDER NO.50C 4/93 DT.14.9.94.
- EXT.P-2: THE PHOTOCOPY OF THE NOTICE DATED 5.2.2014.
- EXT.P-3: THE PHOTOCOPY OF THE DEMAND NOTICE DATED 3.3.2014.
- EXT.P-4: THE PHTOCOPY OF THE NOTICE.
- EXT.P-5: THE PHOTOCOPY OF THE PROPOSAL DATED 27.1.2014 SUBMITTED
BY THE 6TH RESPONDENT UNION.
- EXT.P-6: THE PHOTOCOPY OF THE PROPOSAL DATED 27.1.2014 SUBMITTED
BY THE 7TH RESPONDENT UNION.
- EXT.P-7: THE PHOTOCOPY OF THE ORDER DATED 10.9.2014.
- EXT.P-8: THE PHOTOCOPY OF THE SUMMONS DT.8.10.2014.

RESPONDENT(S)' EXHIBITS:-

NIL.

Vku/-

[true copy]

K. Vinod Chandran, J.

W.P(C) No.28420 of 2014-B

Dated this the 30th day of March, 2015

JUDGMENT

The petitioner is a management, who is aggrieved with Exhibit P7 reference made under Section 10 of the Industrial Disputes Act, 1947 [for short "ID Act"]. The dispute arose when the Union of the employees of the petitioner, being the 6th and 7th respondents, filed an application before the District Labour Officer for revision of retirement age. The petitioner-management contends that no conciliation was held and the petitioner was confronted with Exhibit P7 reference order. The specific contention of the management is that there could be no reference of the said dispute, since retirement age is specified in the Certified Standing Orders of the petitioner-Company under the Industrial Employment (Standing Orders Act, 1946 [for brevity "Standing Orders Act of 1946"], as is evident from Exhibit P1. The retirement age as per the Certified Standing Orders of the year 1994 being 55, there could be no dispute or an industrial adjudication on that respect, is the contention of the management.

2. This Court is of the opinion that, on the strength of the Standing Orders, the contention of the management has to be sustained. There could be no reference of such dispute.

3. The learned counsel for respondents 6 and 7, however, prays that the Unions may be permitted to raise the issue under the Standing Orders Act of 1946. That would not be an issue which could be considered in the writ petition filed by the management against the reference of a dispute at Exhibit P7. It is to be noticed that the representation of respondents 6 and 7 has not been made to the Certified Officer under the Certified Standing Orders, 1994 of the petitioner-management.

In the above circumstances, the writ petition is allowed and Exhibit P7 is set aside. There could be no reference, of the dispute regarding the retirement age, which is regulated by the Certified Standing Orders of 1994 of the management-Company. Necessarily, no proceedings could be taken on Exhibit P8. The remedies of the Union under the Standing Orders Act, if any, would be left open. Parties are left to suffer their respective costs.

Sd/-

K. Vinod Chandran,
Judge

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