

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.01.2015

CORAM :

THE HONOURABLE MR. JUSTICE T. RAJA

W.P.NO. 5548 OF 2006

and

W.P.M.P Nos.5991 & 5992 of 2006

Hamsaveni Spinners (P) Ltd.,
Rep. by its Managing Director
Mr. C. Balakrishnan

...Petitioner

Vs.

1. The Govt. of Tamil Nadu
rep. by Secretary to Govt.,
Labour & Employment Department,
Fort St. George,
Chennai - 600 009.
2. The Presiding Officer
Labour Court
New Combined Court Complex
Coimbatore.
3. The Assistant Commissioner of Labour
(Conciliation -2)
Dr. Balasundaram Road
Coimbatore - 641 018.
4. Thamizhaga Panjhalai Thozhilalar Sangam
(Affiliated to Bharathiya Mazdoor Sangh)
Admn.Off: Visvakarma Mazdoor Bhavan
231, Sathy Road, Ganapathy,
Coimbatore - 641 006.
Represented by its Secretary

...Respondents

PRAYER: This Writ petition is filed under Article 226 of Constitution of India, praying for the issuance of Certiorarified Mandamus, to call for the records of the 1st respondent made in G.O. (D) No.1161

Labour and Employment (D1) Department dated 23.09.2005 and quash the same and forbear the 2nd respondent Labour Court, Coimbatore from proceeding with the I.D. No.289/05 and pass such other further orders.

For Petitioner : Mr. S. Silambanan, Sr. Counsel
for Mr. N. Umapathi

For Respondents : Mr. N. Srinivasan, AGP
for R1 & R3
Mr. R. Sunil Kumar for R4
R-2 - Court.

O R D E R

This Writ Petition is filed by M/s.Hamsaveni Spinners (P) Ltd., represented by its Managing Director, Mr. C. Balakrishnan, challenging the Reference made by the first respondent in G.O. (D) No.1161 Labour and Employment (D1) Department dated 23.09.2005, to quash the same, with a further direction to forbear the 2nd respondent Labour Court, Coimbatore from proceeding with the I.D. No.289/05.

2. Mr. S. Silambanan, learned Senior Counsel appearing on behalf of the petitioner would submit that two of the employees, namely, Mr. M. Sivaswamy and Mr. B. Manickam were dismissed from service for the charges levelled against them. Subsequent to the order of dismissal passed against the said two employees, the Petitioner/ Management also moved Approval Petitions before Learned Industrial Tribunal in A.P. Nos. 86 and 87 of 2010. During the pendency of the Approval Petitions, the Management had reached an out of Court settlement with Mr. B. Manickam and paid the entire payments due to him on 12.10.2006 and receipts were also issued by the Management and therefore the said Manickam has no grievance. However, as far as Mr. M. Sivaswamy is concerned, the Approval Petition is pending. There cannot be any reference made by the first respondent in the impugned G.O. (D) No.1161 Labour and Employment (D1) Department dated 23.09.2005. Therefore, learned senior counsel sought for quashing the same, as the first respondent has hurriedly passed the G.O. without even taking note of the pending Approval Petition before the Industrial Tribunal, Chennai.

3. Learned counsel appearing for the 4th respondent also fairly submitted that the Approval Petition filed by the Petitioner Management towards Mr. M. Sivaswamy alone is pending before the Industrial Tribunal in A.P. No. 86/2010, since award had already been

passed in A.P. No.87/2010. In view of that he sought for liberty to raise all the legal contentions before the learned Industrial Tribunal, wherein the Approval Petition is pending.

4. Recording the same, the impugned G.O. (D) No.1161 Labour and Employment (D1) Department dated 23.09.2005 issued by the first respondent is quashed. As mentioned above, the 4th respondent is given liberty to agitate the issues before the Learned Industrial Tribunal, wherein the Approval Petition is pending.

5. With the above direction, the Writ Petition is disposed of. Consequently, the connected Miscellaneous Petitions are closed. No order as to costs.

Sd/-

Deputy Registrar(J)

//True Copy//

Sub Assistant Registrar

avr

To

1. The Secretary to Govt.,
Labour & Employment Department,
Fort St. George,
Chennai - 600 009.
2. The Presiding Officer
Labour Court,
New Combined Court Complex
Coimbatore.
3. The Assistant Commissioner of Labour
(Conciliation -2), Dr. Balasundaram Road
Coimbatore - 641 018.

2 CCs to Mr. S. Silambanan, Advocate SR.No. 515

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LRS (CO)

PSI (13.03.2015)