

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 05-08-2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

WRIT PETITION No.25788 OF 2001

The Management,
Madras Suspension Ltd.,
Madurai.

... Petitioner

-vs-

1.The Presiding Officer,
Labour Court,
Madurai.

2.K.Gandhi
3.N.Muthuraj
4.G.Ramachandran
5.K.Alagarasamy
6.S.A.Kannan
7.T.Rajendran
8.K.Chelladurai
9.M.Raja
10.T.Krishnamurthy
11.P.Raja
12.M.Shanmugam
13.M.P.Murugan
14.M.Kannan

... Respondents

Writ Petition has been filed, praying for issuance of a writ of certiorari, to call for the records of the first respondent made in common order in I.A.No.260/99 in I.D.No.43/96; I.A.No.261/99 in I.D.No.44/96; I.A.No.262/99 in I.D.No.45/96; I.A.No.263/99 in I.D.No.46/96; I.A.No.264/99 in I.D.No.48/96; I.A.No.265/99 in I.D.No.49/96; I.A.No.266/99 in I.D.No.50/96; I.A.No.267/99 in I.D.No.62/96; I.A.No.268/99 in I.D.No.161/96; I.A.No.269/99 in I.D.No.162/96; I.A.No.270/99 in I.D.No.163/96; I.A.No.271/99 in I.D.No.159/96; I.A.No.272/99 in I.D.No.160/96, dated 25.06.2001, and quash the same.

For petitioners : Mr.S.Silambanan,
Senior Counsel for Mr.A.P.Pasupathy

For respondents
2,4 to 8, & 11
to 13 : Mr.S.Arunachalam.

R10 : No Appearance

R3,9 and 14 : Died

R1 : Court.

O R D E R

The petitioner-management, in the affidavit filed in support of this Writ Petition, would state that the respondents 2 to 14 were employed by it and dismissed from service after a full-fledged inquiry, on the ground that they resorted to illegal strike and other allied activities. Respondents 2 to 14/workmen, aggrieved over the order of dismissal, raised industrial disputes in I.D.Nos.43,44,45,46,48,49,50,62,159,160,161,162 and 163 of 1996 on the file of Labour Court, Madurai.

2. The petitioner-management, during the pendency of the said I.Ds., filed interim applications, wherein the preliminary issue was, under Rule 35 of the Industrial Disputes Rules, stating that the Court has to decide the preliminary issue as to the propriety of the inquiry i.e., fairness in conducting the domestic inquiry, and, however, the first respondent Labour Court, without properly appreciating the factual circumstances and the legal position, has erroneously dismissed the applications vide the impugned order, dated 25.06.2001, and challenged the reality of the same in this Writ Petition.

3. Mr.S.Silambanan, learned Senior Counsel appearing for the petitioner-management, would contend that the Labour Court ought to have taken up the preliminary issue as to the fairness in conducting the inquiry in the applications, but, instead, it has held in the impugned order that the said issue need not be resorted to, for the reasons that it may cause further delay in the disposal of I.Ds., and, therefore, the said order is not at all in order, and prays for interference of this Court.

4. Per contra, learned counsel for the respondents-workmen would contend that Rule 34 of the Tamil Nadu Industrial Disputes Rules prescribes a time limit for filing counter and, admittedly, in this case, the petitioner-management has filed its counter nearly after one-and-a-half years after the date of appearance and that the petitions to decide the fairness of the inquiry came to be filed only on 31.06.1999 i.e., after three years from the date of entering appearance in the main industrial disputes; therefore, the first respondent Labour Court has rightly observed that the preliminary issue would cause further delay, as the workmen were dismissed from service as early as on 21.01.1996, and prays for dismissal of the Writ Petition.

5. This Court has carefully considered the rival submissions and perused the materials placed before it.

6. It is a well settled position of law that the preliminary issue can be decided only if it involves adjudication on pure question of law and if it involves the question of fact, it cannot be tried as a preliminary issue.

7. It is the categoric stand of the learned counsel for the respondents-workmen, that the applications seeking to decide

the issue as to the fairness of the domestic inquiry came to be filed much belatedly, and it is not in consonance with Rule 35 of the Tamil Nadu Industrial Disputes Rules.

8. The Labour Court has taken into consideration the fact that the said issue can be taken up along with the other issues involved in the main I.Ds. Therefore, it is not as if the prayer sought for by the petitioner to decide the said issue is foreclosed.

9. This Court, on carefully going through the entire materials and upon independent application of mind, is of the considered view, that there is no error apparent or infirmity in the reasons assigned by the first respondent Labour Court to dismiss the applications filed under Rule 35 of the Rules.

10. In the result, this Writ Petition is dismissed, confirming the order impugned, dated 25.06.2001. However, under the circumstances, there shall be no order as to costs. Since the I.Ds. are of the year 1996, the first respondent shall make every endeavour to dispose of the same and pronounce final verdict, as expeditiously as possible, and not later than nine months from the date of receipt of a copy of this order.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

dixit

N.B.:

Registry is directed to despatch the records, if any, to the Labour Court, Madurai, forthwith, after the certified copy is made ready.

To
The Presiding Officer,
Labour Court,
Madurai.

+1 cc to M/s.Arunachalam Associates, Advocate, sr.40762

Copy to: The Section Officer,
Writ Section, High Court,
Madras.

W.P.No.25788/2001

ak(co), kra(24/08)