

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.31946 of 2015

Date:29.10.2015

Between:

Srikakulam Gas Supply Workers Union,
Srikakulam, repled by its General Secretary

..... Petitioner

And:

The State of A.P., repled by its
Principal Secretary, Labour, Employment,
Training & Factories Department,
Hyderabad and six others.

.....Respondents

Counsel for the Petitioner: Mr. V.Sudhakar Reddy

Counsel for Respondent Nos.1, 2 & 5: AGP for Labour (AP)

The Court made the following:

ORDER:

This Writ Petition is filed for a *Mandamus* to declare the inaction of respondent Nos.2 to 5 in maintaining industrial peace and not issuing necessary directions to respondent No.7 to continue the members of the petitioner-Union in service as illegal and arbitrary. The petitioner sought for a consequential direction to respondent No.7 to continue all the workers who are the employees of the petitioner-Union in service and pay them the minimum wages.

I have heard Mr. V.Sudhakar Reddy, learned counsel for the petitioner and perused the record.

The petitioner pleaded that there are two Hindustan Petroleum Gas Distributors in Srikakulam Town, viz., Sri Devi Prasad Enterprises and Vedamatha Enterprises (respondent No.7); and that as the service conditions of the workmen in these two establishments are deplorable, they have formed the petitioner-Union and registered the same under the Trade Unions Act, 1926. That the petitioner-Union demanded implementation of the statutory benefits like Minimum Wages, Welfare Fund, Provident Fund and other statutory benefits; that on 01.4.2014, respondent No.7 agreed orally to apply Provident fund and other benefits to all workers; that the Management of respondent No.7 did not stick to its promise and forced the workmen to sign for more by paying lesser wages; that the petitioner demanded payment of minimum wages or at least to pay the salaries on par with the other gas agency i.e., Sri Devi Prasad Enterprises; that with effect from 01.4.2015, respondent No.7 has discontinued all the workers and also door delivery of gas cylinders; and that on the petitioner raising the issue before respondent No.5, the latter has issued proceedings vide Rc.No.A2/1190/2015, dated 24.4.2015, whereunder he has directed Sri Devi Prasad Enterprises, which was kept in charge for distribution of gas cylinders to the consumers of respondent No.7, to engage the workers earlier engaged by the latter. The petitioner further averred that a couple of days later i.e., on 27.4.2015, at the instance of respondent No.6, respondent No.5 has passed a diametrically opposite order permitting respondent No.7 to engage workers whom it likes. Alleging that the later proceedings were issued by respondent No.5 at the instance of respondent No.6, this Writ Petition is filed.

Section-2(k) of the Industrial Disputes Act, 1947 (for short 'the Act') defines 'industrial dispute' and it reads as under:

“ 'industrial dispute' means any dispute or difference between employers and employers, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person.”

From the nature of the dispute raised by the petitioner, it is clearly evident that the same falls within the definition of 'industrial dispute'. Though serious allegations of *mala fides* have been made against respondent No.4 by impleading him as an *economine* party as respondent No.6, no evidence whatsoever is placed before the Court in support of these allegations.

Be that as it may, as the dispute raised by the petitioner is squarely comprehended by the definition of 'industrial dispute' under Section-2(k) of the Act, I do not find any reason whatsoever for the petitioner for not approaching the Labour Court and instead, invoking the extra-ordinary jurisdiction of this Court under Article-226 of the Constitution of India. Besides the fact that the petitioner has raised an industrial dispute in this Writ Petition, resolution of such a dispute requires recording of oral evidence in addition to considering the documentary evidence. Therefore, the Labour Court is the appropriate forum for adjudication of such a dispute.

For the above-mentioned reasons, the Writ Petition is dismissed giving liberty to the petitioner to raise an industrial dispute under the Act.

As a sequel to dismissal of the Writ Petition, WPMP.No.41289 of 2015 shall stand dismissed as infructuous.

JUSTICE C.V.NAGARJUNA REDDY

29th October 2015

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