THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION NO.8264 OF 2009

DATED:28-7-2015

Between:

N. Chandrasekhar
and others
… Petitioners

And

Bharath Dynamic Ltd.,
Kanchanbagh,
Rep. by its Chairman & Managing Director
Kanchanbagh
Hyderabad, A.P.
and others … Respondents

… Respondents

COUNSEL FOR THE PETITIONER : Mr. Nuthalapati Krishnamurthy

COUNSEL FOR RESPONDENT NOs.1 to 3: Mr. N. Srinivas, for Mr. K. Srinivasa Murthy

COUNSEL FOR RESPONDENT NO.4 : -

THE COURT MADE THE FOLLOWING:

ORDER:

This writ petition is filed for a mandamus to declare the action of respondent Nos.1 and 2 in absorbing contract workers calling them as erstwhile management casuals in Settlement dt.24.12.2008, as unjust, illegal and arbitrary. The petitioners sought for a direction to the management of respondent No.1 to absorb only erstwhile management casual workers working with material handling contractor.

The petitioners claim that they were erstwhile management casual workers presently working with material handling contractor. A Memo of Settlement was entered into between the management of respondent No.1 and its recognized union, i.e., respondent No.3, under Section 18(3) read with Section 12(3) of the Industrial Disputes Act, 1947 (for short, 'the Act'). The said Settlement provided for absorption of various types of daily wage workers. The petitioners felt aggrieved by the preparation of the list vide Annexure-II of the Settlement containing 28 erstwhile management casuals working with material handling contractor, excluding their names.

After hearing the learned counsel for both the parties, I am of the opinion that the dispute raised by the petitioners needs to be adjudicated by the competent Labour Court or Industrial Tribunal, as the petitioners have raised an industrial dispute pertaining to the validity of a Settlement entered into between the management and the recognized trade union. As the resolution of dispute requires recording of evidence and appreciation of various factual aspects, a writ petition under Article 226 of the Constitution is not an appropriate remedy. Therefore, the petitioners ought to have raised an industrial

dispute under Section 10 of the Act.

In this view of the matter, the writ petition is dismissed without being adjudicated on the merits of the case and with liberty to the petitioners to raise an industrial dispute under the provisions of the Act.

As a sequel to dismissal of the writ petition, W.P.M.P. No.10796 of 2009 shall stand disposed of as infructuous.

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C.V. NAGARJUNA REDDY, J

28-7-2015

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