

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.02.2016

Coram

The Hon'ble Mr. Justice T.S. Sivagnanam

Writ Petition No.36917 of 2015

and

M.P.No.1 of 2015

Corporation Universal Employees' Union,
Bonded Division (Regn No.119/DRP)
rep. by its Secretary,
No.13, Jawahar Nagar,
Krishnagiri Road, First Street,
Nearby Joseph ITI,
Hosur - 635 109.

...Petitioner

Vs.

1. The Government of Tamil Nadu,
rep. by its Secretary,
Labour and Employment Department,
Fort St. George,
Chennai - 600 009.
2. The Labour Officer,
Krishnagiri.
3. The Management,
Corporandum Universal Limited
Bonded Abrasives Division,
48, SIPCOT Industrial Complex,
Hosur -635 126.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus to forbear the third respondent from altering the service conditions of the members of the Trade Union, viz., N.Ragunathan, M.Sasikumar, Gopikrishnan, and A.Chinnaraj in any manner, including discontinuance of service, without getting prior permission under Section 33 of the Industrial Disputes Act, 1947, in the industrial dispute raised by the petitioner-Union regarding questioning the unfair labour practices of the third respondent-Management, which is pending conciliation before the second respondent as Dispute in 236 of 2015 and further direct the Conciliation Officer, viz., the second respondent to conciliate and effect settlement under section 12 (3) and if no settlement is forthcoming, to submit failure report under section 12 (4) of

Industrial Disputes Act, 1947, and in turn, to direct the first respondent to refer the dispute for adjudication before the competent adjudicator.

For Petitioner : Mr.A.Suresh Sakthi Murugan

For Respondents- 1 &2: Mr.R.Rajeswaran
Special Government Pleader

For Respondent-3 : Mr.Ravi, for M/s.Gupta and Ravi

O R D E R

Heard Mr.A.Suresh Sakthi Murugan, the learned counsel appearing for the petitioner, Mr.R.Rajeswaran, learned Special Government Pleader appearing for respondents 1 and 2, and Mr.Ravi, the learned counsel appearing for M/s.Gupta and Ravi Associates for the third respondent.

2. The petitioner is an employees' Union, consisting of employees of the third respondent/Management, and the petitioner/Union seeks for issuance of Writ of Mandamus, to forbear the third respondent/Management from altering the service conditions of members of the petitioner-Union, including discontinuance of service, without getting permission under Section 33 of the Industrial Disputes Act, 1947 (hereinafter, referred to as 'the Act'), and to direct the second respondent/Labour Officer to effect conciliation proceedings.

3. At the time, when the Writ Petition was entertained on 19.11.2015, this Court directed the learned Special Government Pleader for respondents 1 and 2, to get instructions as regards the stage of the conciliation proceedings. Since it was submitted that thirteen sittings have taken place and the matter was adjourned to 23.11.2015, and noting that the conciliation proceedings had been prolonged to such a long time, i.e., from June, 2015 to November, 2015, this Court thought fit to grant interim injunction, restraining the third respondent from altering the service conditions of the members of the petitioner/Union until further orders. It is not disputed by the petitioner/Union that this issue concerns four workmen, who are its members.

4. The learned counsel appearing for the third respondent/Management has submitted that the first limb of the prayer, sought for, in the Writ Petition, (viz., the prayer to forbear the third respondent/Management from altering the service conditions of the petitioner/Union) is not maintainable. Third respondent is not doing any public function, therefore, the question of issuing Writ of Mandamus does not arise, and

the Writ Petition is liable to be dismissed in limine. So far as the second limb of the prayer is concerned, (viz., the prayer to direct the Conciliation Officer to conclude the conciliation proceedings), it has to be pointed out that the third respondent/Management is cooperating in the conciliation proceedings, and appropriate direction may be issued to the Labour Officer/second respondent, to conclude the conciliation proceedings in a time bound manner.

5. So far as the first limb of the prayer in the Writ Petition is concerned, this Court thought fit to grant interim injunction on the ground that the conciliation proceedings had been prolonged from June, 2015 to November, 2015 and nothing transpired during the proceedings. The submission made by the learned counsel for the third respondent/Management that the third respondent is a private party, and not doing any public function, therefore, the first limb of the prayer sought for in the Writ Petition is not maintainable, is sustainable.

6. Now, the issue would be as to whether there is any alteration of service conditions. But, time has not come to decide the such issue, since the Conciliation Officer is yet to submit the report one way or other. Therefore, the interim injunction, which was granted by this Court on 24.11.2015, would only preserve the industrial peace, which may facilitate conciliation, and not to the contrary. In any event, this Court is of the view that the Conciliation proceedings should be concluded at the earliest point of time. Recording the submission made by the learned counsel appearing for the petitioner/Union and the third respondent-Management that the petitioner/Union and the third respondent/Management will cooperate in the conciliation proceedings, this Court, while declining to grant the first limb of the prayer sought for in the Writ Petition, is inclined to grant the second limb of the prayer. Accordingly, there will be a direction to the second respondent-Labour Officer to conclude the conciliation proceedings within a period of two weeks from the date of receipt of a copy of this order. Until then, whatever status quo, which is prevailing as on date, shall continue to be maintained by all the parties till report is submitted by the Conciliation Officer.

7. With the above direction and observation, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

-s/d-

Assistant Registrar

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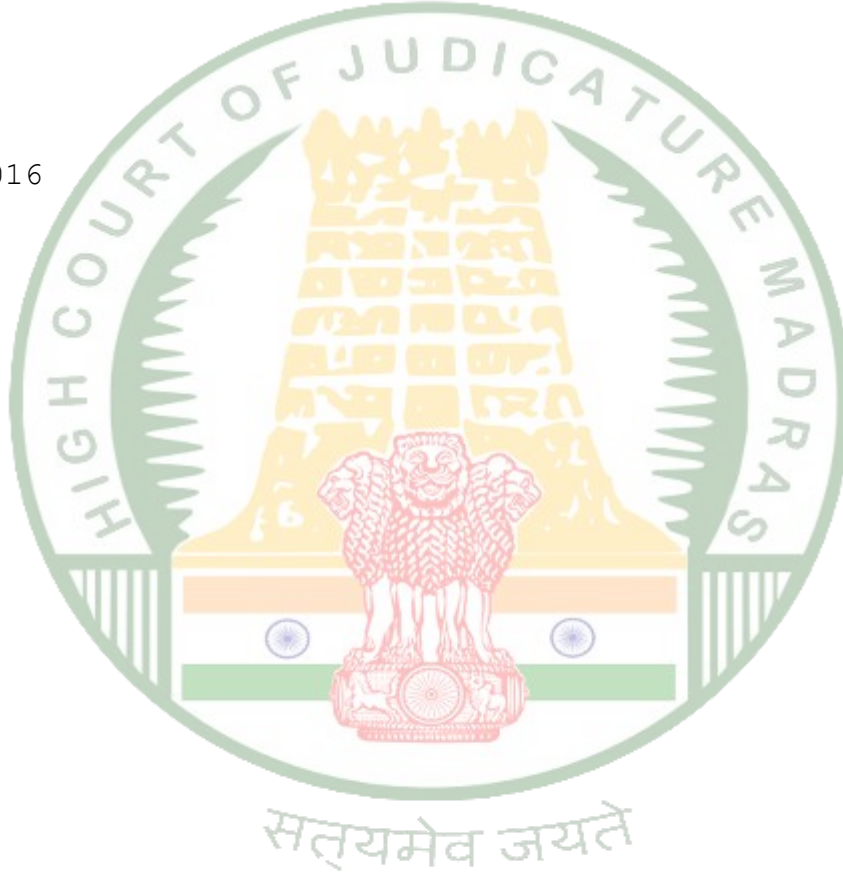
Sub-Assistant Registrar

To

1. The Secretary Government of Tamil Nadu
Labour and Employment Department,
Fort St.George
Chennai-09
2. The Labour Officer,
Krishnagiri

Writ Petition NO.36917 of 2015

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