

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.02.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.37898 of 2015
and M.P.No.1 of 2015

Airports Authority of India Bhadra Employees Union
Regn.NO.3469/CNI
Rep.by its General Secretary
K.T.K.Thangamani Illam
No.2/1, Kovur Vaidyanathan Street,
Chintadripet,
Chennai - 600 002. ... Petitioner

Vs.

1. Government of India,
rep.by its Secretary,
Labour and Employment,
Rafi Marg, Sansad Marg Area,
New Delhi, Delhi - 110 001,
2. Assistant Labour Commissioner (C) - I
Office of the Deputy Labour
Commissioner (Central)
No.26, Haddows Road, Shastri Bhavan,
Chennai - 600 006,
3. Airport Director,
Airports Authority of India,
Chennai Airport
Meenambakkam,
Chennai - 600 027,
4. M/s.Bhadra International India Ltd.,
rep.by its Vice President - HR & IR
A-9, Airlines Office Gallery, 2nd Floor,
Anna International Terminal,
Chennai Airport,
Chennai - 600 027. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking for the relief of issuance of writ of declaration declaring the notice issued by the 4th respondent dated 21.11.2015 as illegal, arbitrary, in violation of section 33, 25 N of the Industrial Disputes Act, 1947 and consequently direct the 2nd respondent to conciliate the dispute raised by the petitioner dated 01.04.2015 regarding the regularization of the members of the petitioner union and effect settlement and if no settlement is forthcoming to submit failure report under section

12(4) of the I.D.Act, 1947 to the 1st respondent and in turn the 1st respondent to refer the dispute for adjudication before the competent Industrial Adjudicator.

For Petitioner : Mr.Balan Haridas
For Respondents: Mr.B.Ramaratnam,CGSC for R.1
Mr.R.Rajeswaran,SPCGP for R.2
Mr.F.R.A.Xavier Arulraj
for R.3 and R.4

ORDER

The petitioner is a Trade Union called Airports Authority of India Bhadra Employees Union and they have filed this petition praying for issuance of writ of declaration declaring the notice issued by the 4th respondent dated 21.11.2015 as illegal and in violation of section 33, 25 N of the Industrial Disputes Act, 1947 and for a direction to the 2nd respondent - Assistant Labour Commissioner (Central) - I to conciliate the dispute raised by the petitioner dated 01.04.2015 regarding the regularization of the memembs of the petitioner union and effect settlement and if no settlement is forthcoming to submit failure repaort under section 12(4) of the I.D.Act, 1947 to the 1st respondent and in turn the 1st respondent to refer the dispute for adjudication before the competent Industrial Adjudicator.

2. The petitioner has raised a dispute on 1.4.2015 before the Assistant Labour Commissioner (Central), Chennai, 2nd respondent under Section 2(k) of the Industrial Disputes Act, in which, they have requested the 2nd respondent to initiate conciliation proceedings and bring out an amicable settlement by regularizing the services of the 800 employees, whose details have been given in the annexure to the petition. The said dispute was entertained by the 2nd respondent and notice dated 1.6.2015 was issued to the petitioner, the 3rd respondent as well as the 4th respondent with a direction to participate in the joint discussion/conciliation proceedings to be held on 18.6.2015 at 11.00 a.m.

3. It appears that conciliation proceedings is going on and the minutes of the conciliation proceedings filed in the typed set of papers shows that on various dates i.e., on 18.6.2015, 3.8.2015 and 28.8.2015, the conciliation has been conducted and the matter now stands adjourned for the parties to participate in further discussion. At that stage, on 21.11.2015, a notice was issued by the 4th respondent and this has necessitated the petitioner to approach this Court fearing that their service conditions would be altered.

4. The fact remains that the service conditions of the members of the petitioner Union having not been altered till date and the 2nd respondent has been actively proceeding with the conciliation proceedings. At this stage, it would be relevant to

take note of Section 33 of the Industrial Disputes Act, which deals with condition of service etc., to remain unchanged under certain circumstances during pendency of proceedings. In terms of sub-section (1)(a) of Section 33 of the Industrial Disputes Act, 1947, during the pendency of any conciliation proceeding before a Conciliation Officer or a Board or of any proceeding before an arbitrator or a Labour Court or Tribunal or National Tribunal in respect of an industrial dispute, no employer shall in regard to any matter connected with the dispute, alter, to the prejudice of the workman concerned in such dispute, the conditions of service applicable to them immediately before the commencement of such proceedings. This provision is with a view to preserve status quo during the proceedings when the conciliation proceedings are pending. Admittedly, in the instant case, the dispute was raised by the petitioner Union on 1.4.2015 and on various dates conciliation proceedings have been conducted, as referred to supra. It is during the pendency of the conciliation proceedings the notice dated 21.11.2015 has been issued by the 4th respondent. Therefore, the members of the petitioner union are entitled to protection under Section 33(1) (a) during the pendency of the conciliation proceedings before the 2nd respondent.

5. Accordingly, the writ petition is disposed of by directing the 2nd respondent to actively proceed with the conciliation proceedings with a further direction to the petitioner and respondents 3 and 4 to participate in the proceedings without any default and the 2nd respondent shall endeavour to bring out an amicable settlement within a period of six weeks from the date of receipt of a copy of this order, failing such amicable settlement, a report shall be submitted by the 2nd respondent on the expiry of the said time limit to the 1st respondent, which has to be considered by the 1st respondent for further action in accordance with law. Till proceedings are concluded as per the directions issued by this Court to the 2nd respondent, status quo with regard to the employment of the members of the petitioner Union, which was prevailing on the date when there the dispute was raised ie., 1.4.2015, shall be maintained. No costs. Consequently, the connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary,
Labour and Employment,
Rafi Marg, Sansad Marg Area,
Government of India,
New Delhi, Delhi - 110 001,
2. Assistant Labour Commissioner (C) - I
Office of the Deputy Labour Commissioner (Central)
No.26, Haddows Road, Shastri Bhavan,
Chennai - 600 006,
3. Airport Director,
Airports Authority of India,
Chennai Airport
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4. The Vice President - HR & IR
M/s.Bhadra International India Ltd.,
A-9, Airlines Office Gallery, 2nd Floor,
Anna International Terminal,
Chennai Airport,
Chennai - 600 027.

+1cc to M/s. Balan Haridas, Advocate, S.R.No.12723
+1cc to Mr.B. Ramaratnam, Advocate, S.R.No.12767
+2ccs to Dr.F.R.A Xavier Arul Raj, S.R.No.13347

CTK(CO)
EU(09/03/2016)

सत्यमेव जयते

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