

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2016

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THE HON'BLE MR. JUSTICE T.S.SIVAGNANAM

W.P.No.8609 of 2016 and W.M.P.No.7659 of 2016

Workmen of AVTEC Limited, Hosur,
through AVTEC Employees Progressive
Federation, represented by its AVTEC Thozhilar Sangam,
General Secretary, Mr.D.D.Raju,
Union Office, AVTEC Limited,
Poonapalli village, Regd.No.217/DRP
Mathagondapalli Post,
Hosur - 635 114. ... Petitioner

Vs.

1. The Government of Tamil Nadu,
represented by its Secretary to
Government, Department of Labour and
Employment, Secretariat,
Fort St.George,
Chennai - 600 009,
2. The Management of AVTEC Limited,
Poonapalli village,
Mathagondapalli Post,
Hosur - 635 114. Respondents

Prayer: Petition filed under Article 226 of The
Constitution of India praying to issue a writ of mandamus to
direct the first respondent to return the application for
permission made by the second respondent under Form Q3 dated
2.2.2016 seeking permission for lay off in respect of its
factory at Poonapalli village, Mathagondapalli Post, Hosur - 635
114.

For Petitioner : Mr.V.Prakash, Sr.Counsel for
Mr.K.Sudalaikannu

For Respondents: Mr.R.Razeswaran, Spl.Govt.Pleader
for R.1

O R D E R

Heard Mr.V.Prakash, learned Senior Counsel assisted by
Mr.K.Sudalaikannu , learned counsel appearing for the petitioner
and Mr.R.Razeswaran, learned Special Government Pleader
accepting notice on behalf of the 1st respondent.

2. In the light of the facts, this Court does not propose to go into the merits of the contentions, which are to be taken note of by the 1st respondent, as notice to the 2nd respondent is dispensed with.

3. The petitioner is the Employees Union consisting of members, who are employees of the 2nd respondent Management. They have filed this writ petition to direct the 1st respondent to return the application for permission made by the 2nd respondent under Form Q-3 dated 2.2.2016 seeking permission for lay-off in respect of its factory at Poonapalli village, Mathagondapalli Post, Hosur - 635 114. The petitioner Union has received a notice from the Commissioner of Labour Chennai, dated 12.2.2016 informing that the 1st respondent has proposed to hear both the employer and the workmen on 9.3.2016 at 11.00 a.m in his Chambers regarding application for lay-off for all 103 workmen of the 2nd respondent Management. Further, the petitioner has been advised to attend the hearing on 9.3.2016 with all relevant documents and details. The petitioner on 21.2.2016 has submitted its objection/representation requesting the 1st respondent to return the Form Q3 submitted by the Management as it having been filed in violation of the statutory provision. The learned Senior Counsel reiterated the objections raised in the representation and has referred to Section 25-N of the Industrial Disputes Act (in short, 'the Act') and submitted that copy of the application of the 2nd respondent ought to have been forwarded to the petitioner simultaneously as mandated under the statute and this has been violated by the Management. Further, by referring to Rule 60-B(2) of the Tamil Nadu Industrial Disputes Rules, 1958, it is submitted that the application shall be sent simultaneously by registered post to the President or Secretary of the registered Trade Union functioning in the establishment. It is submitted that the said procedure has been violated. Learned Senior Counsel appearing for the petitioner further submitted that the Form Q-3 application alone was forwarded to the petitioner without the annexures and the same has been posted only on 23.2.2016 and in this regard learned counsel would refer to the postal cover and submits that this will clearly show that it is a violation of Section 25-N(2) of the Act.

4. The petitioner's apprehension is that in the hearing to be held on 9.3.2016, the 1st respondent will not take into consideration their objection. In my view, the petitioner need not have any such apprehension, since the notice of enquiry enables the parties to produce documents as well as details. Therefore, if such a contention is raised by the petitioner alleging statutory violation, it is needless to state that the 1st respondent should go into the matter.

5. Therefore, without going into the merits of the contentions raised by the petitioner, a direction is hereby issued to the 1st respondent to take note of the petitioner's objections dated 21.2.2016 and examine the said issue in the course of the personal hearing, which has been directed to be held on 9.3.2016.

With the aforesaid direction, the writ petition stands disposed of. No costs. Consequently, the connected miscellaneous petition is closed.
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s/d-
Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

To

1. The Secretary to
Government, Department of Labour and
Employment, Government of Tamil Nadu,
Secretariat,
Fort St. George,
Chennai - 600 009,
 2. The Management of AVTEC Limited,
Poonapalli village,
Mathagondapalli Post,
Hosur - 635 114.
- + 1 cc to Mr.K.Sudalaikannu, Advocate SR 14782

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W.P.No.8609 of 2016

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