

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.03.2016

Coram

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

Writ Petition No.9267 of 2016

&

W.M.P.No.8234 of 2016

Workmen of Renault Nissan Automotive
India Private Limited through the
United Labour Federation rep. by its
General Secretary, C.J.Complex
4th floor, 149, Thambu Chetty Street
Chennai-600 001Petitioner

Vs.

1.Assistant Commissioner of Labour
(Conciliation-I)

Irungattukottai
Sriperumbudur Taluk
Kancheepuram District

2.Management of Renault Nissan
Automotive India Private Ltd
Plot No.1, Oragadam, Mathur Post
Sriperumbudur Taluk,
Kancheepuram District

3.Mr.J.Singhpaul, Advocate

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus directing the first respondent to forthwith commence conciliation with regard to the industrial dispute raised by the petitioner on 04.02.2016 and further direct the first and third respondent to await the progress of the conciliation proceedings before proceeding with the domestic enquiry instituted against the members of the petitioner union.

For Petitioner : Mr.V.Prakash, Senior Advocate
for Mr.K.Sudalaikannu

For Respondents : Mr.R.M.Muthukumar, G.A for R1

Mr.Sanjay Mohan for
M/s. Sairaj Associates for R2

O R D E R

The workmen of Renault Nissan Automotive India Private Limited are the petitioners in this writ petition. The prayer sought for is to direct the 1st respondent to forthwith commence conciliation with regard to the industrial dispute raised by the petitioner on 04.02.2016 and further direct the 1st and 3rd respondent to await the progress of the conciliation proceedings before proceeding with the domestic enquiry instituted against the members of the petitioner union.

2. Primarily, the petitioner union was aggrieved by the action of the 2nd respondent Management in naming the 3rd respondent as an Enquiry officer to conduct the domestic enquiry in the matters where disciplinary actions were initiated against the workmen. On the last hearing on 16.03.2016, elaborate submissions were made by the learned Senior counsel for the petitioner Mr.V.Prakash and the learned counsel for the 2nd respondent management. The grievance expressed by the workmen is against the 3rd respondent being appointed as an Enquiry officer in the domestic enquiry which is to be conducted by him. After discussion and deliberation, this Court made a suggestion to the learned counsel for the parties and passed the following order:

"Heard Mr.V.Prakash, Learned Senior Counsel for the petitioner and Mr.Sanjay Mohan for M/s. Sairaj Associates for R2 and 3.

After hearing the matter for sometime and pursuant to the suggestions made by this Court, a consensus is arrived at subject to instructions being obtained by the learned counsel for the respondents 2 and 3. In order to make things clear the discussion which took place in Court is placed on record. The employees viz., P.Anand, G.Vinodh and B.S.Kurrappa are stated to have been already dismissed from service. Therefore, they have to avail the remedies available to them under the provisions of Industrial Disputes Act.

Learned Senior counsel for the petitioner Union agrees with the said aspect. This leaves us with five employees viz., P.Gowrishankar, K.Santhoshkumar, C.Cheran, A.Azhagesan and S.Kuzhanthavelu.

The court suggested that a different Enquiry Officer may be chosen and domestic enquiry may be conducted against these employees. There is a broad agreement on the name of the Enquiry Officer. However, learned counsel for the 2nd respondent management

seeks a days adjournment to get written instructions.

Post on 17.03.2016."

Today, learned counsel appearing for the 2nd respondent on instructions submitted that the management is agreeable to the suggestion made and accordingly seeks for appropriate direction so as to proceed in accordance with law.

3. In so far as the three employees are concerned viz., P.Anand, G.Vinodh and B.S.Kurrappa who are stated to have been dismissed from service, it is open to them to avail the remedies available to them under the provisions of Industrial Disputes Act. In so far as the other five employees viz., P.Gowrishankar, K.Santhoshkumar, C.Cheran, A.Azhagesan and S.Kuzhanthavelu, the workmen have agreed to subject themselves to the domestic enquiry afresh before a new enquiry officer in the place of 3rd respondent. Accordingly the domestic enquiry shall commence in respect of those five employees as agreed to between the parties. Mr.S.Gowthaman, shall be appointed as the new enquiry officer. The enquiry which was initially commenced by the 3rd respondent shall stand aside and the proceedings shall be commenced by Mr.S.Gowthaman afresh.

4. It is made clear that merely because the 2nd respondent management has agreed to conduct the enquiry in respect of those five persons by Mr.S.Gowthaman as enquiry officer, no adverse inference can be drawn against the 2nd respondent management when the three three employees viz P.Anand, G.Vinodh and B.S.Kurrappa who have been dismissed from service and challenge their dismissal before appropriate forum. Therefore, it is made clear that Mr.S.Gowthaman, Advocate has been appointed as Enquiry Officer as agreed between the parties and he shall proceed with the enquiry against the five workmen which will not in any manner prejudice the 2nd respondent in the proposed challenge to be made by the 2nd respondent against the three persons in the event they challenge their dismissal.

5. In the light of the above orders, nothing further survives for consideration before the 1st respondent and what ever action has been done by the 1st respondent based on the request of the petitioner shall stand closed.

6. Writ petition is disposed of. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1. The Assistant Commissioner of Labour
(Conciliation-I)
Irungattukottai
Sriperumbudur Taluk
Kancheepuram District

2. Mr.S. Gowthaman,
Advocate, Advocates Association,
High Court, Madras.

+1cc to Mr.K. Sudalaikannu, Advocate, S.R.No.17928
+1cc to Mr.Sairaj Associates, S.R.No.17848
+1cc to the Government Pleader, S.R.No.18046

SV(CO)
EU(15/04/2016)

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