

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.08.2017

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.A.No.978 of 2017

The Management of
Roca Bathroom Products Private Limited
Ranipet 632 401 Vellore District ... Appellant

-vs-

1. Parry Retired Employees Welfare
Association rep.by its President
No.10, Jain Complex
Kamarajar Street, New CSI Church
Walajahpet 632 613
2. The Government of Tamil Nadu
rep.by its Secretary
Labour and Employment Department
Fort St.George, Chennai 600 009
3. The Conciliation Officer
Labour Office-1
No.10, Thiyagarajapuram, Vellore 632 001
4. The Management of Coromandel
International Limited
Fertilizer Division, Ranipet 632 401
Vellore District ... Respondents

Appeal under Clause 15 of the Letters Patent, against the order dated 25.04.2017 made in W.P.No.995 of 2015.

Prayer in Writ Petition: Writ petition is filed under Article 226 of the Constitution of India praying for and issuance of Writ of Certiorari and Mandamus to call for the records relating to the order bearing Ref. Na.Ka.Enn.734/2013 dated 1.4.2014 passed by the 2nd respondent and to quash the same as being illegal arbitrary and the provisions of the Industrial Disputes Act 1947 and for a direction to the 1st respondent to consider and issue a reference relating to the revision of pension to the members of the petitioner Association to the appropriate Labour Forum and to adjudicate the same within a time frame fixed by this Honourable Court.

For Appellant :: Mr.Anand Gopalan for
M/s T.S.Gopalan & Co.
For Respondents:: Mr.N.G.R.Prasad
for Mr.V.Govardhanan for R1/Caveator

JUDGMENT

(Judgment of the Court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel for the parties.

2. It appears that in connection with the payment of enhanced pension, there is a dispute between the appellant-Management and the first respondent-Association. The stand of the appellant-Management, among other things, is that the members of the first respondent-Association do not fall under the definition of "workman" under Section 2(s) of the Industrial Disputes Act and as such, the issue cannot be raised. On the other hand, it is the case of the members of the first respondent-Association that they have a legitimate right to seek for enhancement of pension since, what was being paid in 1993, the same pension cannot be continued to be paid even after more than two decades, among other things.

3. At the outset, we are of the considered opinion that such disputed questions of fact cannot be gone into and adjudicated in a writ proceeding, as it is for the third respondent-Conciliation Officer to look into the matter and render a finding as to the maintainability or otherwise of the reference or dispute, on the basis of the contentions urged by the parties, and a decision has to be rendered on merits. In that view of the matter, in modification of the order passed by the learned single Judge, it is for the appellant-Management as well as the members of the first respondent-Association to urge all the respective contentions before the Conciliation Officer including the judgments, if any, relied upon in support of their respective contentions and it is for the third respondent-Conciliation Officer to consider the respective contentions and pass appropriate orders on merits, in the light of the judgments, if any, relied upon by the parties. Thereafter, if the Management or the Association, as the case may be, is not satisfied with the order passed by the Conciliation Officer, it is always open for them to have recourse to the law before the appropriate forum. With this observation, the writ appeal is disposed of accordingly. Consequently, C.M.P.No.13607 of 2017 is closed. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary to Government
Labour and Employment Department
Fort St.George
Chennai 600 009

2. The Conciliation Officer
Labour Office-1
No.10, Thiyagarajapuram
Vellore 632 001

+1cc to Mr.Row & Reddy, Advocate, S.R.No.59281

+1cc to Mr.T.S.Gopalan & co, Advocate, S.R.No.59056

W.A.No.978 of 2017

GMI (CO)
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