

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2017

CORAM:

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.27413 of 2017

and

W.M.P.Nos.29309 and 29310 of 2017

& 34274 of 2017

The Management of
Caterpillar India Pvt Ltd.,
Melnallathur, Tiruvallur 602004.
Rep., by its Authorised Signatory. .. Petitioner

VS

1.The Asst. Commissioner of
Labour(Conciliation),
Kuralagam,
Chennai-600 108.

2.Caterpillar India Pvt Ltd Workers Union,
Rep. By its General Secretary,
Melnallathur,
Thiruvallur-602 004.

3.The Superintendent of Police,
Master Plan Complex,
Tiruthani Main Road,
(Behind Collector Office),
Tiruvallur-602 001.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to direct the first

respondent to act on the representation of the petitioner dated 24.10.2017, advice the second respondent and its members not to indulge in any strike or any direct action contrary to the provisions of Section 22 of the Industrial Disputes Act.

For Petitioner : Mr.Anand Gopalan
For M/s T.S.Gopalan and Co.,

For RR 1 and 3 : Mr.A.Raja Perumal,
Additional Government Pleader

For R2 : Mr.Balan Haridas

ORDER

The relief sought for in this writ petition is for seeking to issue a direction to the first respondent to act on the representation of the petitioner dated 24.10.2017, advice the second respondent and its members not to indulge in any strike or any direct action contrary to the provisions of Section 22 of the Industrial Disputes Act.

2. The learned counsel appearing on behalf of the writ petitioner states that the second respondent has issued a notice for strike on 25.10.2017, which made the writ petitioner to approach this Court by way of filing this present Writ Petition under Article 226 of the Constitution of India.

3. Now, the learned counsel appearing on behalf of the second respondent states that they have not issued any strike notice to the petitioner Management and if at all any such decision is taken by the second respondent Union, they will abide by the procedures contemplated under Section 22 of the Industrial Disputes Act.

4. The said statement made by the learned counsel appearing on behalf of the second respondent is disputed by stating that in the very same counter affidavit, the second respondent has stated that they have already issued a notice on 25.10.2017, and in that, the Union has asked the employees to participate after the working hours in a non-violent agitation and even in that, there was no call for any strike.

5. The learned counsel appearing for the writ petitioner raised a doubt that they are indirectly indulging in strike by stating that they have issued notice on one hand and refusing the same on the other hand. In order to clarify the stand taken by the second respondent, the learned counsel appearing on behalf of the 1st and 3rd respondents made it clear that whenever any such decision to go on strike is taken by the second respondent, a proper notice in accordance with Section

22 of the Act will be issued and further, it is clarified that without issuing any such notice, the second respondent Union will not indulge in any kind of strike or otherwise directly or indirectly.

6. Both, the learned counsel appearing on behalf of the petitioner as well as the second respondent are bound by the provisions of law. Therefore, wrongful interpretation of Law by either of the parties can never be allowed by the Court. Taking advantage of the provisions, the second respondent Union cannot indulge in any back door way of declaring the strike, so also the petitioner Management. Management is expected to be fair in all respects and to treat the workmen fairly in accordance with law. This being the principle to be followed both by the petitioner as well as the second respondent, this Court is of the opinion that no further adjudication needs to be undertaken in respect of the grounds raised in this writ petition. Accordingly, the **Writ Petition is disposed** of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

30.11.2017

stm/sts

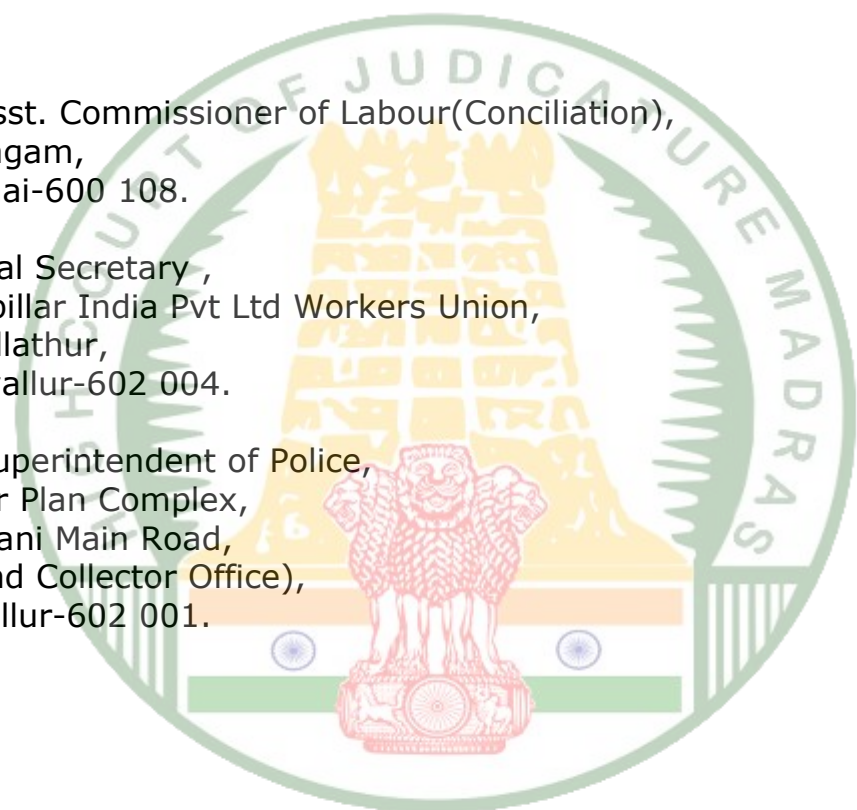
Index : Yes/No

Internet : Yes/No

Speaking /Non-speaking Order

To

- 1.The Asst. Commissioner of Labour (Conciliation),
Kuralagam,
Chennai-600 108.
- 2.General Secretary ,
Caterpillar India Pvt Ltd Workers Union,
Melnallathur,
Tiruvallur-602 004.
- 3.The Superintendent of Police,
Master Plan Complex,
Tiruthani Main Road,
(Behind Collector Office),
Tiruvallur-602 001.

The seal of the Tamil Nadu Legislative Assembly is a circular emblem. It features a central yellow temple gopuram (tower) with a red lion capital of Ashoka in front of it. The gopuram is set against a background of a green and white striped field. The words "TAMIL NADU LEGISLATIVE ASSEMBLY" are written in a circle around the central image. Below the seal, the motto "सत्यमेव जयते" (Satyameva Jayate) is written in Devanagari script.

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S.M.SUBRAMANIAM, J.,

sts



Order in
W.P.No.27413 of 2017

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