

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2017

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.28787 of 2017

Tamil Nadu General Workers Union
Chennai Airport Contract Workers Unit
Visitors Entry Ticketing Workers Division
rep.by its General Secretary
2/1, Kovur Vaithiyanathan Street
Chintadripet
Chennai 600 002 .. Petitioner

-vs-

1. Government of India
rep.by its Secretary
Ministry of Labour and Employment Department
Rafi Marg
New Delhi
2. The Assistant Labour Commissioner (Central)
Office of the Deputy Chief Labour Commissioner (Central)
No.4, Haddows Road
Shastri Bhavan
Chennai 600 006
3. The Airport Director
Airports Authority of India
Chennai Airport
Meenambakkam
Chennai 600 027
4. The Managing Director
Karnataka Commercial & Industrial
Corporation Private Ltd.,
No.24, II Floor, RK Terminus
Ballari Road, Ganga Nagar
Bengaluru 560 032

5. The Manager
KCIC Private Ltd.,
II Floor, Terminal-3
International Terminal
Chennai Airport
Meenambakkam
Chennai 600 027

6. The Management
S.S.Enterprises
B-101, Jupiter Apartments
Poonam Sagar Complex
Mira Road East
Thane 401 107
Maharashtra

.. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, forbearing the respondent nos.3 to 6 from altering the service conditions of the 22 members of the petitioner union whose names are given in the Annexure to the writ petition in any manner including discontinuance of service or failing to provide employment in any manner or engaging any other employees in the place of the members of the petitioner Union in the operation of the visitor entry ticket without getting prior permission from the second respondent under Section 33 of the Industrial Disputes Act, 1947, in the Industrial Disputes M.8/19/2016-B3 dated 01.11.2016 raised by the petitioner union regarding regularization of the services of the 22 employees concerned in the dispute and further direct the second respondent to conciliate and effect settlement and if no settlement is forthcoming to submit failure report under Section 12(4) of the Industrial Disputes Act and in turn direct the first respondent to refer the dispute for adjudication before the competent Industrial Adjudicator.

For Petitioner :: Mr.Balan Haridas

For Respondents :: Mr.J.Madhanagopal Rao
Central Government
Standing Counsel for R1 & 2

ORDER

This writ petition has been brought by the Tamil Nadu General Workers Union for the Chennai Airport Contract Workers Unit Visitors Entry Ticketing Workers Division represented by its General Secretary for a mandamus, forbearing the respondent nos.3 to 6 from altering the service conditions of the 22 members of the petitioner union whose names are given in the Annexure to the writ petition in any manner including

discontinuance of service or failing to provide employment in any manner or engaging any other employees in the place of the members of the petitioner Union in the operation of the visitor entry ticket without getting prior permission from the second respondent under Section 33 of the Industrial Disputes Act, 1947, in the Industrial Disputes M.8/19/2016-B3 dated 01.11.2016 raised by the petitioner union regarding regularization of the services of the 22 employees concerned in the dispute and further direct the second respondent to conciliate and effect settlement and if no settlement is forthcoming to submit failure report under Section 12(4) of the Industrial Disputes Act and in turn direct the first respondent to refer the dispute for adjudication before the competent Industrial Adjudicator.

2. Mr. Balan Haridas, learned counsel for the petitioner submitted that in the two terminals of the Chennai Airport, namely, Domestic and International, visitors are not allowed inside the airport premises in the domestic terminal, whereas in the international terminal, visitors are allowed on payment of the prescribed entry fee by the third respondent. The issuing of entry ticket to the visitors, examination of the entry ticket and supervision of the entire process of collection and remittance of cash every day to the accounts section were all carried out by the employees of the third respondent till the year 2003. The third respondent had then given the work of issuing the entry ticket and related issues by appointing a contractor from the year 2004 onwards, but the contractor so appointed is only a name lender, because all the employees engaged for issuance of ticket, examination of the ticket, collecting cash, remitting cash etc., are all done under the control and supervision of the third respondent, even without registering under the Contract Labour (Abolition and Regulation) Act to engage the contract labourers for the purpose of doing the aforementioned works. Adding further, it is stated that the contractor has no role in the issuance of entry ticket to the visitors and the allied work, as the attendance register is maintained by the third respondent and only the wages is shown to be made through the contractor. The members of the petitioner Union are also engaged in the shift system on rotation basis. While so, when these members are all paid with meagre wages, though the contribution towards Employees State Insurance and Employees Provident Fund are deducted from them, the same is not being remitted to the aforementioned statutory authorities, as a result they are not getting the benefits. It is also stated that all these 22 members are continuously working for a period from one to nine years. That shows the work is of perennial nature. In these circumstances, a demand was made for their regularisation of service with the third respondent on 1.11.2016. Finally, on 2.12.2016, the conciliation proceedings were initiated. During the pendency of the conciliation proceedings, all the 22 members were refused employment. Such

an act on the part of the third respondent would invite the consequence of Section 33 of the Industrial Disputes Act, 1947, because the respondents 3 to 6, without even taking prior permission from the second respondent as required under Section 33 of the Industrial Disputes Act, cannot either refuse employment or alter the terms and conditions of their service. Therefore, a direction should be issued not to alter the service conditions of the members of the petitioner Union who are waiting for adjudication before the second respondent, he pleaded.

3. Mr.J.Madhanagopal, learned Central Government Standing Counsel, taking notice on behalf of the respondents 1 & 2, submitted that the relationship of employer and employee should be decided by the competent forum, before taking up this writ petition, without which the prayer should fail.

4. But this Court, taking note of the fact that the members of the petitioner Union have approached the second respondent on 1.11.2016 and since the conciliation proceedings were initiated on 2.12.2016 and without going to the merits of the issue, is of the view that the same has to be completed within a reasonable time. Therefore, this Court hereby directs the second respondent-Assistant Labour Commissioner (Central) to complete the conciliation proceedings and file a report within a period of four weeks from the date of receipt of a copy of this order. The writ petition stands disposed of accordingly. Consequently, W.M.P.No.30965 of 2017 is closed. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Union of India
Ministry of Labour and Employment Department
Rafi Marg
New Delhi
2. The Assistant Labour Commissioner (Central)
Office of the Deputy Chief Labour Commissioner (Central)
No.4, Haddows Road
Shastri Bhavan
Chennai 600 006

3.The Airport Director
Airport Authority of India,
Chennai Airport
Meenambakkam
Chennai 600 027

+1 cc to Mr.Balan Haridas Advocate sr 81106
+1 cc to Mr.J.Madhanagopal Rao CGSC sr 81115

W.P.No.28787 of 2017

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