

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.6974 OF 2002

ORDER

Heard Sri P.Govindarajulu, learned counsel appearing for the petitioner, learned Government Pleader for Labour appearing for the 1st and 2nd respondents and Sri C.Balaji, learned counsel appearing for the 3rd respondent.

This writ petition is filed seeking to issue a Writ of Mandamus declaring the action of the 2nd respondent in adjudicating the dispute raised by the petitioner-Union without referring to the Labour Court as arbitrary and illegal and consequently set aside the proceedings dated 7.12.2001 issued by the 2nd respondent.

It is the case of the petitioner that it is a registered union and the members of the union were working in the 3rd respondent-company; that when the 3rd respondent-company had closed the unit by illegally terminating its employees, the petitioner-Union had raised a dispute before the 2nd respondent, who is a Conciliation Officer on 28.11.2001; that the 2nd respondent has called for a joint meeting of the 3rd respondent-company as well as the members of the petitioner-Union on 6.12.2001; that thereafter, the 3rd respondent had sent a letter to the 2nd respondent on 26.12.2001 to the effect that the

3rd respondent has closed the unit after following the due process of law by settling all the terminal benefits to its employees. Based on such letter of the 3rd respondent, the 2nd respondent closed the dispute raised by the petitioner-Union vide proceedings dated 7.12.2001.

Learned counsel appearing for the petitioner submits that the 2nd respondent, who is the Conciliation Officer ought not to have closed the dispute raised by the petitioner-Union, and if the issue raised by the petitioner-Union has been resolved, then a settlement should be entered and that settlement should be referred to the appropriate Government or if the dispute is not settled, then the final failure report should be submitted to the appropriate Government and the Government can take a decision as to whether the dispute can be referred to the Tribunal or not, but the 2nd respondent cannot straight away reject the dispute raised by the petitioner herein. Learned counsel further submits that the 2nd respondent has no power to reject the dispute raised as per Section 12 of the Industrial Disputes Act, 1947 (for short 'the Act') and that the writ petition should be allowed directing the 2nd respondent to submit a failure report to the appropriate Government.

Learned Government Pleader for Labour appearing for respondents 1 and 2 submits that the dispute raised by the petitioner-Union was rejected way back in 2001 and the 2nd respondent has rightly closed the dispute raised by the petitioner and hence, it needs no interference by this Court as the 3rd respondent has closed down the unit after following the due procedure and settled the terminal benefits to the employees and hence, the writ petition should be dismissed.

I have considered the rival submissions made by the learned counsel on either side.

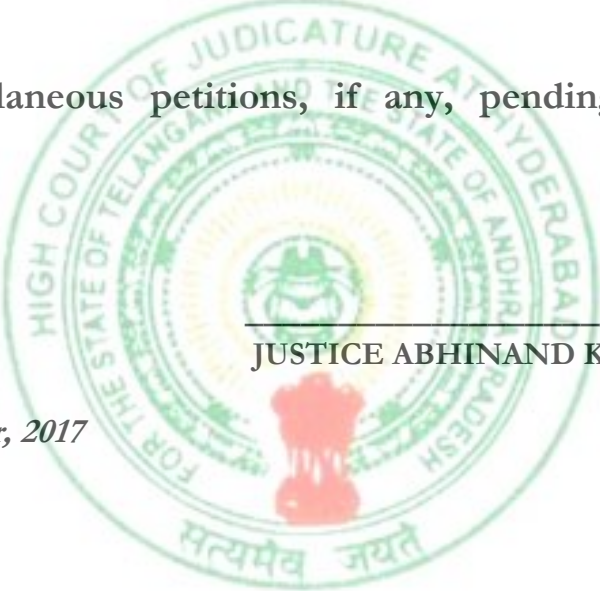
This Court is of the considered view that the 2nd respondent, who is the Conciliation Officer, has no power to reject the dispute raised by the petitioner-Union. If there is any settlement arrived at between the parties, the 2nd respondent should record the statement and submit the same to the appropriate Government and if there is any failure, the same should also be referred to the appropriate Government and it is for the appropriate Government to refer the dispute to the Industrial Tribunal or Labour Court in terms of Section 10 of the Act. The action of the 2nd respondent in rejecting the dispute raised by the petitioner-Union is not in accordance with law.

Therefore, the 2nd respondent is directed to submit a failure report to the appropriate Government within a period of eight weeks from the date of receipt of a copy of the order and it is for the appropriate Government to take a decision as to whether the dispute can be referred to the Industrial Tribunal or not depending upon the failure report to be submitted by the 2nd respondent.

With these observations, the Writ Petition is disposed of.

No costs.

Miscellaneous petitions, if any, pending shall stand closed.



JUSTICE ABHINAND KUMAR SHAVILI

21st December, 2017
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