

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.04.2018

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.5814 of 2018

and

WMP.No.7148 of 2018

MRF Employees' Union,
Regn. No.30/69,
Rep. by its General Secretary,
No.37, Pattinathar Kovil Street,
Thiruvottiyur,
Chennai - 19. ... Petitioner

-vs-

- 1.The Additional Commissioner of Labour,
Certifying Officer under Industrial
Employment (Standing Orders) Act,
6th Floor, DMS Compound,
Teynampet, Chennai - 600 006.
- 2.The Management of MRF Limited,
Rep. by its Managing Director,
P.B. No.5285, Thiruvottiyur High Road,
Chennai - 600 019. ... Respondents

PRAYER:

Writ Petition filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the first respondent to allow the petitioner to adduce evidence in Standing Orders Case File No.3805/2016 before deciding the fairness of the modification sought in the certified standing orders.

For Petitioner :: Mr.V.Prakash (Party-in-person)

For Respondents :: Mr.V.Kadhirvel
Special Government Pleader (For R1)

Mr.Vijayan for
M/s. King and Partridge (For R2)

O R D E R

The relief sought for in this writ petition is to direct the first respondent to allow the petitioner to adduce evidence in Standing Orders Case File No.3805/2016 before deciding the fairness of the modification sought in the certified standing orders.

2.The petitioner appearing in person made a submission that the Standing Orders Case File No.3805/2016 is protracted and prolonged on one or the other ground. More specifically, in the matter of interpreting the provisions of the Act.

3.The learned Special Government Pleader appearing for the first respondent relying on the counter affidavit made a submission that the case was adjourned from time to time and inspite of that, the petitioner has not adduced any evidence.

4.May that it be, this Court has to consider the provisions of Section 4 of the Industrial Employment Standing Orders Act, 1946 which reads as follows:

4.Conditions for Certification of standing orders.--

Standing orders shall be certifiable under this Act if--

(a) provision is made therein for every matter set out in the Schedule which is applicable to the Industrial establishment, and

(b) the standing orders are otherwise in conformity with the provision of this Act and it ¹[shall be the function] of the Certifying Officer or appellate authority to adjudicate upon the fairness or reasonableness of the provisions of any standing orders.

5.Section 10 deals with Duration and modification of the Standing Orders and the same is extracted here under:

(1) Standing orders finally certified under this Act shall not, except on agreement between the employer and the workmen, ¹[or a trade union or other representative body of the workmen], be liable to modification until the expiry of six months from the date on which the standing orders or the last modifications thereof came into operation.

¹[(2) Subject to the provisions of the sub-section (1), an employer or workman ²[or a trade union or other representative body of the workmen] may apply to the Certifying Officer to have the

standing orders modified, and such application shall be accompanied by five copies of ³[***] the modifications proposed to be made, and where such modifications are proposed to be made by agreement between the employer and the workmen, ²[or a trade union or other representative body of the workmen,] a certified copy of that agreement shall be filed along with the application.]

(3) The foregoing provisions of this Act shall apply in respect of an application under sub-section (2) as they apply to the certification of the first standing orders.

⁴[(4) Nothing contained in sub-section (2) shall apply to an industrial establishment in respect of which the appropriate Government is the Government of the State of Gujarat or the Government of the State of Maharashtra.]

6. The above provisions are unambiguous in respect of the fairness and reasonableness to be followed by the Certificate Officer under the provisions of the Act. It is needless to state that the Officer designated under the Act is performing the quasi judicial function and, he has to follow the fairness, reasonableness and the principles of natural justice, during the adjudication and at the time of taking decision and passing orders. This is the requirement of law and the Act also contemplates such principles are to be followed scrupulously. Thus, the authorities, who are all dealing with the matter under the provisions of the Act, are bound to follow the principles of the reasonableness and fairness, while adjudicating the matters between the parties.

7. The grievance of the petitioner is that he was not permitted to adduce evidence. Undoubtedly, the writ petitioner is entitled to adduce his evidence under the provisions of the Act and so also the respondents must be provided with an opportunity to rebut the evidence so submitted or adduced by the writ petitioner.

8. At the outset, all the respective parties are to be provided with an opportunity to adduce evidence and rebut the same in the manner known to law. Under these circumstances, it is suffice if a direction is issued to conduct the proceedings in a fair and reasonable manner and permit the parties to adduce evidence and rebut the same. Accordingly, the first respondent is directed to permit the respective parties to the proceedings to adduce evidence and submit documents and permit them to rebut or defend the same in accordance with law and thereafter take a decision based on the materials available on record and pass orders in all the applications filed by the respective parties

on merits and in accordance with law, within a period of four months from the date of receipt of a copy of this order.

9. Accordingly, the Writ Petition stands disposed of. However, there shall be no order as to costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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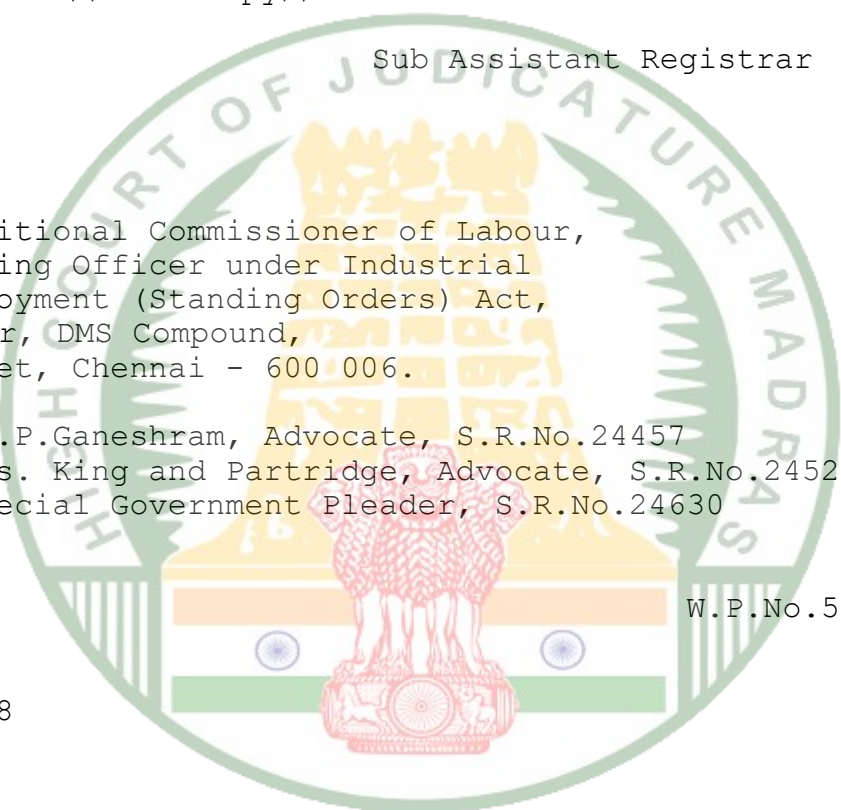
To

1. The Additional Commissioner of Labour,
Certifying Officer under Industrial
Employment (Standing Orders) Act,
6th Floor, DMS Compound,
Teynampet, Chennai - 600 006.

+1cc to Mr.P.Ganeshram, Advocate, S.R.No.24457
+1cc to M/s. King and Partridge, Advocate, S.R.No.24527
+1cc to Special Government Pleader, S.R.No.24630

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