

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10-04-2018

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.14181 of 2017

Viralimalai Rane TRW Steering Systems Private Limited
Employees Union, Regn. No.272/PDK,
Represented by its General Secretary,
C/o.S.Elango, SIEU Office,
Viralimalai-621 326,
Pudukottai District.

... Petitioner

Vs.

1. The Government of Tamil Nadu,
Represented by its Secretary,
Department of Labour and Employment,
Chennai-600 009.

2. M/s.Rane TRW Steering Systems Private Limited,
Plant No.1, FIG Gear Division,
Boothakudi Village,
Viralimalai - 621 326,
Pudukottai District.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India for the issuance of a Writ of Mandamus, directing the first respondent-Government of Tamil Nadu to commence and conclude the enquiry and take necessary action against the second respondent-management under Section 25-T of the Industrial Disputes Act, as per the complaint given by the petitioner-Union on 8.3.2017.

For Petitioner : Mr.M.Suresh

For Respondent-1 : Mr.M.Elumalai,
Government Advocate.

For Respondent-2 : Mr.C.Manohar Gupta for
M/s.Gupta and Ravi.

O R D E R

The relief sought for in this writ petition is for a direction to direct the first respondent-Government of Tamil Nadu to commence and conclude the enquiry and take necessary action against the second respondent-management under Section 25 (T) of the Industrial Disputes Act as per the complaint given by the petitioner-Union on 8.3.2017.

2. On a perusal of the complaint dated 8.3.2017, which is enclosed in Page No.142 of the typed set of papers filed along with the writ petition, the same was addressed to the Secretary, Department of Labour and Employment, Fort St. George, Chennai-9. The complaint speaks about the unfair labour practice against the management of M/s.Rane TRW Steering Systems Private Limited. Section 25-T of the Industrial Disputes Act, 1947, enumerates the prohibition of unfair labour practice. Accordingly, no employer or workman or a trade union, whether registered under the Trade Unions Act, 1926 (16 of 1926), or not, shall commit any unfair labour practice. Section 25-U provides penalty for committing unfair labour practices. It states that any person who commits any unfair labour practice shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both. The above Section 25-T prohibition of unfair labour practice and Section 25-U provides penalty for such offences.

3. It is necessary that for the purpose of arriving a conclusion in respect of unfair labour practice, an adjudication and a finding is required. If any adjudication is completed and a finding is arrived, then alone, an action under the provisions of the Act can be invoked for the purpose of initiating action against the persons who committed such unfair labour practice.

4. Thus, for imposing the penalty under the provisions of the Industrial Disputes Act, 1947, against the unfair labour practice, an adjudication by providing opportunity to all the parties concerned are certainly required. In this regard, the learned counsel, appearing on behalf of the respondents, states that disputes were already raised by the employees-Union and also by the concerned workman in respect of the orders inflicting dismissal of services. Such disputes are pending for adjudication.

5. Thus, in the event of any such finding of unfair labour practice by the competent forum, then alone the provisions under Section 25-T and Section 25-U shall be invoked. When the process of adjudication is in progress, the question of considering the representation for invoking Section 25-T and Section 25-U would not arise at all.

6. In the present writ petition on hand, the writ petitioner-Union have simply sent a representation to the Secretary to Government and the Secretary to Government, cannot be directed to consider the representation in the absence of any adjudication and in the absence of any specific finding in respect of the commission of an offence of unfair labour practice. Under these circumstances, this Court is of an opinion that such general direction cannot be issued in the absence of any specific finding to establish that either the Trade Union or the employer had committed any unfair labour practice.

7. This Court considered the said principles in the case of *Gem Granites v. Government of Tamil Nadu* [(2004) 3 LLN 1033] and paragraph 12 of the judgment, reads as under:

"12. After all, the purpose and intent of the Industrial Disputes Act is for resolution of the relevant disputes as between the workmen and the management and when the very issue relating to the "transfer", as well as, the "non-employment" of the concerned workmen, had already formed part of the dispute which was either disposed of or pending before the Industrial Tribunal, it would be superfluous for the State Government to refer the further issue relating to "unfair labour practice" based on the very same allegation of "unjustified transfer" and "unjustified termination of the probationers and the regular workmen." Therefore, when the second respondent can validly contend in the pending dispute, this very issue as a ground of attack, namely, "the commission of unfair labour practice by the management," while attacking the order of "transfer" as well as the "termination", the present order of reference will have to be held as wholly uncalled for and the same cannot be allowed to remain in force."

8. Thus, an adjudication and finding is a pre-condition for invoking Section 25-T and Section 25-U of the Industrial Disputes Act, 1947. This being the factum of the case, a direction, as such, sought for to the Government to consider the representation submitted by the writ petitioner would not arise at all and this Court is not inclined to consider such relief sought for by the writ petitioner in this writ petition.

9. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

Svn

To

The Secretary,
Government of Tamil Nadu,
Department of Labour and Employment,
Chennai-600 009.

+1cc to M/s.Gupta and Ravi, Advocate, S.R.No.26312
+1cc to Mr.K.Sudalai Kannu, Advocate, S.R.No.26622
+1cc to the Government Pleader, S.R.No.26787

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