

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :02.08.2018

CORAM

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

W.P.No.14792 of 2018

and

W.M.P.No.17486 of 2018

The Management
New Woodlands Hotel Private Limited,
Rep.by its Managing Director,
No.72 to 75, Dr.Radhakrishnan Salai,
Mylapore, Chennai - 600 004. ..Petitioner

vs

1.State of Tamil Nadu,
Rep.by its Secretary,
Labour and Employment Department,
Fort St.George,
Chennai - 600 009.

2.General Secretary,
New Woodlands Hotel Thozhilalar Sangam,
Reg.No.3509 CNI,
AP 261, 11th East Cross Street,
Mahakavi Bharathi Nagar,
Chennai - 600 039.

3.The Presiding Officer,
Industrial Tribunal, सत्यमेव जयते
Chennai. .. Respondents

Prayer: Writ Petition filed under Article 226 of the
Constitution of India praying to issue a Writ of Certiorari,
call for the records of the 1st respondent in G.O.(D).No.322,
Labour and Employment(A1) Department and quash its order dated
17.05.2018.

For Petitioner : Mr.S.Ravindran, Senior Counsel
for M/s.S.Bazeer Ahamed

For Respondents: M/s.A.Srijayanthi, Spl GP for R1
Mr.K.Raja for R2

O R D E R

The order passed by the first respondent in G.O.(D).No.322, Labour and Employment Department dated 17.05.2018 is under challenge in this writ petition.

2.The Government Order was issued based on the failure report submitted by the Conciliation officer and the disputes raised are referred for adjudication before the Tribunal. The writ petitioner Management filed the present writ petition, challenging the said Government order, mainly on the ground that out of 232 workmen, 203 workmen had signed the 18(1) Settlement with the Management and therefore, the first respondent had not applied mind before passing the Government order, referring the disputes to the Tribunal for adjudication.

3.The learned Senior Counsel appearing on behalf of the writ petitioner contended that when 90% of the workmen had agreed and signed the 18(1) Settlement, the Government has no reason to refer the disputes to the Tribunal for adjudication. The opinion of the minority workmen cannot constitute a ground for adjudication of the issues before the Tribunal.

4.The learned counsel appearing for the 2nd respondent/workmen opposed the contention by stating that the members of the 2nd respondent Sangam had not signed the Settlement and in fact, the writ petitioner Management secretly obtained signatures from individual workman under coercion and such an act of the writ petitioner, cannot be considered at all. The learned counsel for the second respondent is of an opinion that there was no fair approach on the part of the writ petitioner and they had obtained the signature of the individual workman for the purpose of implementing the 18(1) Settlement. The learned counsel further contended that even the members of the second respondent Sangam are ready to file an affidavit to that effect, that they have not consented for any such 18(1) Settlement. In view of the fact that certain factual disputes were raised by the second respondent Sangam, this Court is of an opinion that readjudication of these factual issues are necessary.

5.This apart, the learned Senior Counsel appearing on behalf of the writ petitioner also raised a point that the Government has not applied its mind before passing the final order in respect of the fact that 90% of the workmen had already signed the Settlement.

6.In this view of the matter, this Court is of an opinion that the present writ petition is a fit case for remand and readjudication of all the disputed facts and circumstances by the

first respondent and pass a revised order on merits and in accordance with law.

7. Accordingly, the impugned order passed by the first respondent in G.O.(D).No.322, Labour and Employment (A1) Department dated 17.05.2018 is quashed. The first respondent is directed to readjudicate the entire issues between the parties on merits and in accordance with law and pass a fresh order, after providing an opportunity to all the parties concerned within a period of six weeks from the date of receipt of a copy of this order. The time limit is prescribed on condition that the parties concerned cooperate for the early readjudication of the issues by the first respondent. In the event of non-cooperation, the first respondent is at liberty to record the same in the official proceedings and the time limit fixed, need not be adhered to.

8. With these terms, the writ petition stands allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary, State of Tamil Nadu,
Labour and Employment Department,
Fort St. George,
Chennai - 600 009.

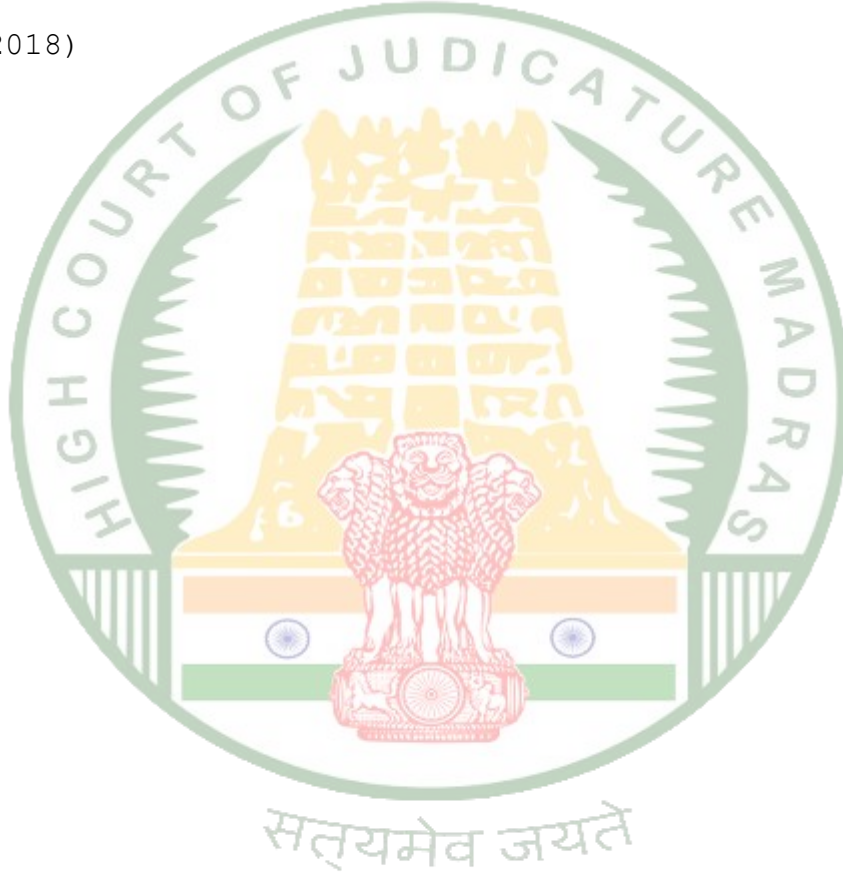
2. General Secretary,
New Woodlands Hotel Thozhilalar Sangam,
Reg.No.3509 CNI,
AP 261, 11th East Cross Street,
Mahakavi Bharathi Nagar,
Chennai - 600 039.

3.The Presiding Officer,
Industrial Tribunal,
Chennai.

+1cc to Mr.K.RAJA Advocate, S.R.No.52762
+1cc to Mr.S.BAZEER AHAMED, Advocate, S.R.No.52718
+1cc to the Government Pleader, S.R.No.53277 & 54013

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RK(CO)
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