

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.10.2018

CORAM
THE HON'BLE DR.JUSTICE S.VIMALA

W.P.No.25904 of 2018

The Management of Pennar Industries Ltd
rep.by its Koteswara Rao, Senior DGM (Operations)
Patta No.452, 90 Periyapalayam Main Road
Kannigaiperu Village, Uttukkottai Taluk
Thiruvallur District 601 011

....Petitioner

Vs

1.The Government of Tamil Nadu
Labour and Employment Department
rep.by its Secretary, St.George Fort
Chennai 600 009.

2.The Presiding Officer
III Additional Labour Court, Chennai.

3.United Labour Federation
Regn.No.2657/CNI, rep.by its Secretary
No.149, Thambu Chetty Street
C.J.Complex, 4th Floor, Chennai 600 001.

...Respondents

For Petitioner : Mr.Sanjay Mohan
for M/s.S.Ramasubramaniam
For Respondents : Mr.N.Srinivasan - AGP for R1
R2 - Court

Prayer : Writ Petition filed under Article 226 of the Constitution of India seeking a writ of Mandamus directing the first respondent the Government of Tamil Nadu Labour and Employment Department, Fort St.George, Chennai 600 009, to pass orders on the Chennai 600 009 to pass orders on the representation dated 15.09.2018 filed by the petitioner for transfer of Industrial Dispute I.D.No.235 of 2015, on the file of the III Additional Labour Court, Chennai covered by G.O.Ms.No.284 to the file of Industrial Tribunal, Chennai.

O R D E R

This writ petition has been filed by the management, challenging the reference made in G.O.(D) 284 to the labour court and incidentally seeking transfer of the industrial dispute in I.D.No.235 of 2015 from the file of the second respondent, III Additional Labour Court, to the file of the

Industrial Tribunal. This dispute is made only on the ground that the number of workmen employed are more than hundred in number.

Therefore it is necessary to consider the necessary provision ie., Section 10 of the Industrial Disputes Act dealing with the power of the Government to make reference.

"The first proviso to S 10(1) however lays down that where the dispute relate to a matter specified in the third schedule and is not likely to affect more than 100 workmen, the appropriate government has the discretion to make the reference to a labor court. Thus whereas questions arising out of second schedule can be adjudicated both by tribunal as well as labour court question arising from matters arising out of third schedule can be referred for adjudication to a tribunal alone, unless the case falls under the first proviso to s 10(1) (d) of the ID act."

2. It is an undisputed fact that the petitioner management has engaged more than 100 workmen. The contention of the learned counsel for the petitioner is that under Section 10(1) (d) of the Industrial Disputes Act, the Government should have referred the dispute to the Industrial Tribunal and not to the labour court. This preposition of law is not disputed by the learned counsel for the third respondent union.

3. Remanding the matter back to the government with a direction to refer the dispute to the industrial tribunal is not going to serve any purpose, as the issue to be referred is already decided and the choice of forum is only based on a legal provision. Under the circumstances, this Court is of the view that instead of remanding the matter to the Government for a fresh reference, straight away the matter could be transferred to the appropriate forum. Accordingly, the second respondent is directed to transfer the I.D.No.235 of 2014 from its file to the file of the Industrial Tribunal, Chennai forthwith. The order copy shall be communicated to the II Additional Labour Court, Chennai. With the above directions, the writ petition is disposed of. No costs. Consequently, connected W.M.P. is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

KST

To

- 1.The Secretary
Government of Tamil Nadu,
Labour and Employment Department
St.George Fort
Chennai 600 009.
- 2.The Presiding Officer
III Additional Labour Court, Chennai.
- 3.The Industrial Tribunal
Chennai.

W.P.No.25904 of 2018

rrs 03/10/2018



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