



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.02.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No.19150 of 2014

and

MP (MD) Nos.1 & 2 of 2014

&

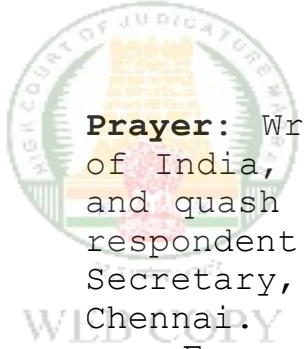
WMP (MD) No.17771 of 2016

Rane TRW Steering Systems Limited,
Plant 1, FL Gear Division,
Boothakudi Village,
Viralimalalai 621 316,
Pudukottai District,
Rep.by its Vice President - Operations,
K.Sudhakar ... Petitioner

Vs.

1. Rane TRW Steering Systems
Limited Employees Union,
Viralimalalai 621 316,
Pudukottai District.
Rep.by its President V.Prakash
2. Viralimalalai Rane TRW Steering
Systems Employees Union,
(Affiliated to AITUC),
Registration No.272/PDK,
Viralimalalai 621 316,
Pudukottai District,
Rep.by its President,
N.Balakrishnan
3. Government of Tamil Nadu,
Rep.by its Principal Secretary,
Labour and Employment Department,
Fort St.George, Chennai.
4. Assistant Commissioner of Labour,
(Conciliation), Mannarpuram, Trichy - 620 020.
5. The Presiding Officer,
<https://hcservices.ecourts.gov.in/hcservices/>
Industrial Tribunal, Chennai - 104.

... Respondents



Prayer: Writ petition is filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, to call for the records and quash G.O(D)No.377, dated 21.08.2014 on the file of the third respondent Government of Tamil Nadu rep. by its Principal Secretary, Labour and Employment Department, Fort St.George, Chennai.

For petitioner : Mr.Saravanan
for Mr.Gupta and Ravi

For Respondents : Mr.M.Suresh for R1

Mrs.S.Srimathy,
Spl., Govt.Pleader for R3 and R4

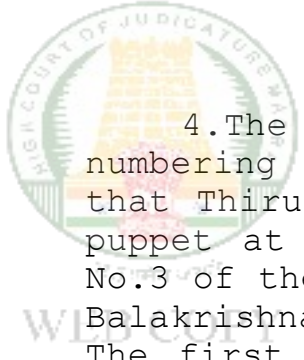
R2 - No appearance

ORDER

Heard the learned counsel on either side.

2.The writ petitioner is a manufacturing industry. It has a factory unit at Boothakudi village, Viralimalai, Pudukottai District. More than 200 workers are employed on permanent basis in the said unit. According to the petitioner, it is the second respondent herein which represents the workers and with whom a settlement under Section 12(3) of the Industrial Disputes Act, 1947 was entered into. The said settlement expired on 31.03.2012.

3.According to the petitioner, even when it was negotiating with the second respondent based on their charter of demands, the first respondent herein submitted their charter of Demands. According to the petitioner, the first respondent is not a registered body and that it has no locus standi to raise any dispute. The petitioner concluded a settlement under Section 18 (1) of the Industrial Disputes Act, 1947 with the second respondent on 07.09.2013 which appears to have been accepted by the overwhelming majority of the second respondent. Be that as it may, the first respondent raised an industrial dispute under Section 2(k) of the Industrial Disputes Act, 1947 on 26.03.2013. Since the petitioner management declined to participate in the conciliation proceedings, Conciliation Failure report was issued by the fourth respondent on 12.07.2013. It was forwarded to the Government which made the impugned order to reference vide G.O(D) No.377, Labour and Employment Department, dated 21.08.2014 for adjudication by the Industrial Tribunal. Upon receipt of the order of reference, the Industrial Tribunal numbered the reference as I.D.No.34 of 2014 and issued notice to the writ petitioner. Aggrieved by the same, this writ petition has been filed.



4.The first respondent has filed a detailed counter affidavit numbering 43 pages. The contention of the first respondent is that Thiru.Balakrishnan who represents the second respondent is a puppet at the hands of the management. In fact, in Paragraph No.3 of the counter affidavit, it has been mentioned that the said Balakrishnan was defeated in the election held in the year 2013. The first respondent has also filed OS.No.68 of 2015 before the District Munsift Court, Keeranoor against the office bearers alleged to have been set up by the company management.

5.A reading of the materials on record would show that a substantial industrial dispute is very much in existence. The petitioner is therefore not justified in contending that since the settlement under Section 18(1) of the Act has already been entered into with the second respondent, no cause of action arose for making any reference. This claim of the petitioner is relied by the stand of the first respondent. As per Section 10 of the Industrial Disputes Act, 1947, where the appropriate Government is of the opinion that any industrial disputes exists or is apprehended, it may refer the dispute to the appropriate forum for adjudication.

6.In this case, based on the failure report sent by the fourth respondent, the Government had formed opinion that in view of the number of workers involved, the matter should be adjudicated by the Industrial Tribunal. The formation of such opinion by the Government cannot be said to be without any basis. It is well settled that where triable issues have been raised, the Government cannot adjudicate the claims of the parties. In this case, the petitioner's contention is that there is no dispute and all the issues have been amicably settled by entering into a settlement with the second respondent union. But, the first respondent herein has raised a dispute stating that they are the actual representatives of the workers and that the second respondent is a mere stooge at the hands of the management.

7.Thus, one has to necessarily conclude that a dispute does exist. The government obviously cannot decide the matter. Therefore, it rightly referred the matter for adjudication by the Tribunal. No interference is called for. There is no merit in this writ petition.

8.This writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar(AS)

/True Copy/



To

1. The Principal Secretary,
Labour and Employment Department,
Fort St.George, Chennai.

2. The Assistant Commissioner of Labour,
(Conciliation), Mannarpuram, Trichy - 620 020.

3. The Presiding Officer,
Industrial Tribunal, Chennai - 104.

+ 1 cc TO Mr.Gupta Ravi , Advocate in SR No. 48095

+ 1 cc TO Mr.M.Suresh , Advocate in SR No. 48055

+ 1 cc TO The Special Government Pleader in SR No. 48579

skm

AE/SV MMS/SAR4/06.06.2018/4P/7C

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