



IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED: 13.06.2019

CORAM:  
THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

W.P.No.3356 of 2013

Villupuram District Loading Employees' Union,  
rep. By its President,  
Regn.No.131/VPM,  
No.3, Ramsan Building,  
East Pondy Road,  
Villupuram - 605 602.

... Petitioner

vs.

1. Government of Tamil Nadu,  
rep. By its Secretary,  
Labour and Employment Department,  
Fort St. George,  
Chennai 600 009.
2. The Labour Officer,  
Cuddalore.
3. The District Collector,  
Villupuram District,  
Villupuram.
4. The Superintendent of Police,  
Villupuram.
5. The District Revenue Officer,  
Villupuram.
6. Villupuram Chamber of Commerce,  
rep. By its President,  
No.12, Kandasamy Layout,  
1<sup>st</sup> Street,  
Villupuram - 605 602.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of Certiorarified mandamus, calling for the records of the 2<sup>nd</sup> Respondent dated 27.09.2012 bearing Na.Ka.No.266/2012 and quash the same and consequently direct the 2<sup>nd</sup> Respondent to initiate conciliation proceedings on the Petition dated 25.07.2012 submitted by the Petitioner Union for fixation of wages for the Loaders of the Petitioner Union and if no settlement is forthcoming to submit failure Report to



the 1<sup>st</sup> Respondent under Section 12(4) of the Industrial Disputes Act, 1947 and in turn, direct the 1<sup>st</sup> Respondent to consider the failure report and refer the dispute for adjudication before the appropriate industrial adjudicator and further by directing the 4<sup>th</sup> Respondent not to interfere in matters relating to fixation of wages and other labour issues concerning the members of the Petitioner/Union which is pending before the 2<sup>nd</sup> Respondent.

For Petitioner : Mr.Balan Haridas

For Respondents 1, 3 to 5: Mr.P.Sivashanmugasundaram,  
Special Government Pleader

For 6<sup>th</sup> Respondent : Mr.P.C.Selvakumar,  
for Mr.K.Govi Ganesan

#### O R D E R

Petitioner/Union has come up with the present Writ Petition seeking to quash the proceedings of the 2<sup>nd</sup> Respondent vide Na.Ka.No.266/2012, dated 27.09.2012 and for a consequential direction to the 2<sup>nd</sup> Respondent to initiate conciliation proceedings on the Petition dated 25.07.2012 submitted by them for fixation of wages for the Leaders of their Union and if no settlement is forthcoming, to submit failure Report to the 1<sup>st</sup> Respondent under Section 12(4) of the Industrial Disputes Act, 1947, and in turn direct the 1<sup>st</sup> Respondent to consider the failure report and refer the dispute for adjudication before the appropriate industrial adjudicator and further direct the 4<sup>th</sup> Respondent not to interfere in matters relating to fixation of wages and other labour issues concerning the members of their Union, which are pending before the 2<sup>nd</sup> Respondent.

2. According to the Petitioner/Union, their members are paid wages on the basis of weight and number of bags/boxes, which are being loaded or unloaded or stacked and the wages are fixed once in three years. However, at the instance of Villupuram Chamber of Commerce, wages have not been revised for the last nine years. It is further stated that Villupuram Chamber of Commerce has filed a Civil Suit viz. O.S.No.383 of 2010 before the Principal District Munsif Court, Villupuram against some individuals, who are supposed to be in the loading and unloading operations and has obtained injunction restraining the Defendants in that Suit from interfering while engaging employees of their choice for loading and unloading operation.

3. It is further stated by the Petitioner that local police force is being used by the Chamber of Commerce to suppress the workers by using the said judgment in the above Suit in connivance with the authorities who are responsible to



WEB COPY

initiate action in accordance with law. The Police, though knowing very well that the judgment will bind only parties to the suit, is using the same to curtail the employees and that the loaders do not know any other job except loading/unloading, which is the only source of their livelihood.

4. The Petitioner/Union has sent a representation dated 25.07.2012 to the 4<sup>th</sup> Respondent/Superintendent of Police, Villupuram, not to interfere in matters relating to Labour issues or foist false cases and also requested the District Collector to take remedial measures. The Commissioner of Labour forwarded the Petitioner's representation dated 25.07.2012 to the 2<sup>nd</sup> Respondent. The Labour Officer, Cuddalore, in turn, called upon the 6<sup>th</sup> Respondent for talks. However, the 6<sup>th</sup> Respondent did not come for talks. Therefore, the proceedings had been closed by the 2<sup>nd</sup> Respondent.

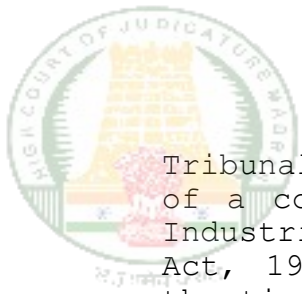
5. Learned counsel for the Petitioner contended that the action of the 2<sup>nd</sup> Respondent in closing the matter without initiating conciliation proceedings and bringing about a settlement between the 6<sup>th</sup> Respondent and the Petitioner Union, is grossly illegal and that the order dated 27.09.2012 passed by the 2<sup>nd</sup> Respondent is in violation of Section 12 of the Industrial Disputes Act, 1947 and is liable to be set aside.

6. Heard the learned counsel for the parties and gone through the material documents available on record.

7. It is seen that the Labour Officer, Cuddalore had closed the dispute stating that the dispute could be raised by the Petitioner Union in an appropriate place. The role of the Officer concerned in terms of Section 12 of the Industrial Disputes Act, 1947 is to try to bring about a settlement between the parties and in case of failure of settlement, the failure Report has to be sent to the Government, based on which, the Government has to refer the dispute. However, the lis between the parties cannot be either adjudicated or closed by the concerned Officer.

8. Learned counsel for the Petitioner has relied on an Apex Court decision in the case of A.P.Foods vs. S.Samuel, reported in 2006 (5) SCC 469, wherein, it is held that it is for the State Government to take a decision in the matter of reference when a dispute is raised. In the case on hand, the matter is pending for more than seven years from the date of raising of the dispute.

9. In the light of the observation made by the Apex Court in the decision cited supra, the 1<sup>st</sup> Respondent herein is directed to refer the dispute with regard to fixation of wages of the members of the Petitioner Union to the Industrial



Tribunal within a period of one month from the date of receipt of a copy of this order. Once the matter is referred to the Industrial Tribunal under Section 10 of the Industrial Disputes Act, 1947, the Tribunal is expected to decide the same within the time stipulated. The Tribunal shall not adjourn the matter beyond seven working days at any point of time and shall follow Rule 34(9) of the Tamil Nadu Industrial Disputes Rules, 1958, in its letter and spirit.

This Writ Petition is allowed with the above direction. No costs. Consequently, connected M.P.No.2 of 2013 is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

(aeb)

To:

- 1.The Secretary,  
Government of Tamil Nadu,  
Labour and Employment Department,  
Fort St. George, Chennai 600 009.
- 2.The Labour Officer,  
Cuddalore.
- 3.The District Collector,  
Villupuram District,  
Villupuram.
- 4.The Superintendent of Police,  
Villupuram.
- 5.The District Revenue Officer,  
Villupuram.

+1cc to Mr.Balan Haridas, Advocate, S.R.No.48110  
+1cc to Mr.K.Govi Ganesan, Advocate, S.R.No.48297

W.P.No.3356 of 2013

NRL (CO)

RRS (01/08/2019)