

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 25.03.2019

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P. NO.22471 OF 2018

Supervisors Union BHEL/BAP/Ranipet
BHEL Post, Ranipet
Vellore, 632 406, rep. By its
General Secretary.

.. Petitioner

- Vs -

1. The Secretary
Union of India
Ministry of Labour & Employment
Shram Shakti Bhawan, Rafi Marg
New Delhi 110 001.

2. The Management of Bharat
Heavy Electricals Ltd., Ranipet
Vellore 632 406, rep. By its
Executive Director.

3. The Regional Labour Commissioner
Central/Conciliation Officer
Ministry of Labour & Employment
No.26, Shastri Bhavan
Haddows Road, Nungambakkam
Chennai 600 006.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of mandamus directing the 1st respondent to forthwith refer the existing dispute regarding discriminative promotion policy in the 2nd respondent Management on the basis of the Failure Report dated 19.10.2016 submitted by the 3rd respondent.

For Petitioner : Mr. R.Sivakumar

For Respondents: Mr. J.Madanagopala Rao, SCGSC for R-1

Mr. A.V.Arun for R-2

ORDER

The present petition has been filed for a direction to the 1st respondent to refer the existing dispute regarding discriminative promotion policy of the 2nd respondent Management pursuant to the failure report dated 19.10.2016, submitted by the 3rd respondent.

2. When the matter is taken up for hearing, this Court was informed that the 1st respondent has already referred the following terms of reference for adjudication before the Industrial Tribunal/Labour Court and, therefore, nothing remains for adjudication in this writ petition.

"Whether the claim of the Management of BHEL, Ranipet, that the members of the Supervisory Union are not workmen as defined in Section 2 (s) of ID Act, 1947. If not, whether the demand of the Supervisors Union, BHEL-BAP, Ranipet for wage upgradation to S1 to S3 Grade Supervisors is legal and justified? If not, to what relief the said workman are entitled to?"

3. However, learned counsel appearing for the petitioner submits that the dispute, which was raised before the authority concerned was in regard to the promotion policy of the 2nd respondent/Management and the terms of reference, as indicated above, are different and do not correspond to the promotion aspect at all. In fact, on behalf of the Union, a letter of objection was also submitted on 12.01.18.

4. Considering the submissions made on behalf of the learned counsel for the petitioner as well as the subsequent development, as aforementioned, this Court is of the view that if the petitioner is aggrieved by the terms of reference, it is always open to the petitioner to approach the 1st respondent to suitable modify the terms of reference or seek for additional terms of reference on the basis of the dispute raised by them before the conciliation authority. This Court is of the considered view that it would be suffice to direct the Government to consider the representation/objection dated 12.1.2018, submitted by the petitioner and pass orders within a particular time frame.

5. In the above circumstances, the 1st respondent is directed to consider the objection/representation of the petitioner, as projected in their letter dated 12.01.2018 and pass appropriate orders on merits and in accordance with law. The 1st respondent is also directed to consider the issue of modifying the terms of reference, already made, in line with the requirement of the petitioner Union or may refer additional

terms of reference in regard to the promotion policy adopted by the 2nd respondent, which is the subject matter of dispute raised by the petitioner Union. The 1st respondent is directed to consider the above and pass appropriate orders on the representation/objection dated 12.01.2018 within a period of eight weeks from the date of receipt of a copy of this order.

6. This writ petition is disposed of with the above observations and directions. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

GLN

To

1. The Secretary
Union of India
Ministry of Labour & Employment
Shram Shakti Bhawan, Rafi Marg
New Delhi 110 001.
2. The Executive Director
Management of Bharat
Heavy Electricals Ltd., Ranipet
Vellore 632 406.
3. The Regional Labour Commissioner
Central/Conciliation Officer
Ministry of Labour & Employment
No.26, Shastri Bhavan
Haddows Road, Nungambakkam
Chennai 600 006.

+1 cc to Mr.A.V.Arun, Advocate, Sr.No. 28153

+1 cc to Mr.R.Sivakumar, Advocate, Sr.No. 28230

+1 cc to Mr.J.Madanagopal, Advocate, Sr.No. 28944

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ssd(co)
CSL/06.06.2019