

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 06.08.2019

Delivered on : 09.08.2019

Coram

The Hon'ble Mr.Justice V.PARTHIBAN

W.P.No.13651 of 2019
and
W.M.P.No.13715 of 2019

Unipress India Thozilalar Sangam,
Regn No.471/KPM,
Rep by its General Secretary,
Mr.L.Suresh.

...Petitioner

Vs.

- 1.The Assistant Commissioner of Labour,
(Conciliation), SIPCOT Project Office,
Irungatukottai, Sriperumbudur,
Kancheepuram.
- 2.The Government of Tamil Nadu,
Rep by its Secretary,
Department of Labour and Employment,
Fort St.George, Chennai - 600 009.
- 3.The Management of Unipres India Pvt.Ltd.,
No.RNS/6, SIPCOT Industrial Growth Center,
Oragadam, Vadakupattu Post,
Sriperambudur Taluk,
Kancheepuram District - 603 204.

... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the first respondent to forthwith to proceed with the conciliation on a day to day basis and conclude the conciliation within 14 days as set out under Section 12(6) of the Industrial Disputes Act and in the event of failure of conciliation to communicate the same to the Government namely the second respondent with the direction to the second respondent Government to refer the disputes for adjudication.

For Petitioner .. Mr.V.Prakash, Senior Counsel
for Mr.M.Karthikeyani

For Respondents .. Mr.J.Pothiraj, Spl.G.P.
for R1 & R2
Mr.Sanjay Mohan, SC
for Mr.Sai Prasad,
for M/s.Sai Raj Associates
(for R3)

ORDER

The petitioner is a registered Union claiming itself to be representative of all the workers employed in the factory belonging to the third respondent. The third respondent factory is involved in the manufacture of automobile spare parts such as Front, Rear, Side Sill, Inner, Center Pillar Inner, Steering Column Cross Member, Sear Cross Member and other spare parts and the components are mainly supplied to the renowned car manufacturing companies, namely, 'Renault Nissan' Datsun. The third respondent is a Japanese Multinational Company. In the said factory there are 189 permanent workers, 50 Contract labours and about 25 trainees.

2.According to the petitioner Union, there is a dispute pending before the Industrial Tribunal in regard to the revision of wages and out of 189 permanent workers, 58 workers were dismissed during the pendency of the wage dispute and therefore, approval petitions were filed before the Industrial Tribunal, seeking for approval of the action taken by the third respondent factory.

3.According to the petitioner Union, one of the essential components of the manufacturing process is welding, which is manually done by the workmen. Later, the management introduced Robots for doing the process, thereby altering the service conditions of the existing employees, without issuing any notice under Section 9A of the Industrial Disputes Act. In view of the introduction of Robots in the place of workmen, several workmen have been dismissed from the service and such unilateral measure introduced by the third respondent factory resulted in the loss of livelihood of several workers. Therefore, the petitioner raised Industrial dispute on 18.12.2018 demanding that there should not be any introduction of Robots, in violation of Section 9A of the Industrial Disputes Act. In response to the dispute raised by the petitioner Union, the Conciliation Officer issued notice of conciliation on 18.01.2019 under reference Na.Ka.No.1164/2018. According to the petitioner Union, although

notice was issued on 18.01.2019, there has not been any significant progress in the conciliation. In the meanwhile, the Management has brought 69 Robots in the plant, resulting in displacement of 58 workers, whose approval petitions are pending before the Industrial Adjudicator. The Robots introduced are under trial operation and in the said circumstances, the petitioner is before this Court for issue of writ of mandamus.

4.The learned Senior Counsel Mr.V.Prakash, appearing for the petitioner Union, would submit that it is not open to the third respondent factory to introduce Robots in the factory work in utter violation of Section 9A of the Industrial Disputes Act. Such unilateral act of the third respondent has resulted in reduction of labour strength and therefore, the action amounted to violation of Section 9A of the Industrial Disputes Act and in order to prevent the third respondent from changing the service conditions of the existing employees, the dispute has been raised. But unfortunately, the Conciliation Officer, i.e., the first respondent herein, though initiated conciliation process as early as on 18.01.2019 has not completed the conciliation and because of the pendency of the conciliation, the status of the work force in the third respondent factory is being affected.

5.Per contra, the learned Senior counsel Mr.Sanjay Mohan appearing for the third respondent would submit that as regards the conciliation process is concerned, the third respondent would have no objection for this Court directing the first respondent to complete the conciliation process and in case of failure, direct the second respondent to refer the dispute for adjudication. But as regards the interim direction as sought in the writ petition, viz., injunction restraining the management from commissioning the Robots for regular manufacturing process, the same cannot be granted. According to him, such interim injunction is misconceived and such relief is beyond the scope of main prayer sought in the writ petition. Therefore, the third respondent has strong objection, in case the petitioner is granted the relief of interim injunction as sought in the writ petition.

6.Mr.J.Pothiraj, the learned Special Government Pleader entered appearance for respondents 1 and 2 and made his submissions.

7.Since, the relief as prayed for in the writ petition falls in a narrow compass, viz., seeking direction from this Court to the first respondent to complete the conciliation process at an early date and in case of failure of the conciliation, submit a report to the Government for reference of adjudication, this

Court felt that such a direction could be straight away issued without going into the merits and demerits of the claim of the rival parties in the writ proceedings.

8.However, as regards the strong objection raised on behalf of the management to the interim injunction, this Court felt that the interim prayer as sought in the writ petition need not be considered presently by this Court, since the main prayer itself is being considered for issuing the writ of mandamus as prayed for.

9.In these circumstances, the writ petition is allowed and there shall be a direction to the first respondent to progress the conciliation proceedings and conclude the same between the petitioner Union and the third respondent management as expeditiously as possible and not beyond 30 days from the date of receipt of copy of this order and in case, the first respondent comes to a conclusion that no conciliation is possible, is directed to file a failure report to the second respondent within the period stipulated herein. On such failure report being submitted, the second respondent is directed to refer the dispute for adjudication within a period of four weeks thereafter. It is also clarified that it is open to the petitioner Union to approach the Government seeking necessary safeguards pending disposal of the dispute and if such plea is made on behalf of the Union, the same shall be considered by the Government on merits and in accordance with law.

10.With the above observations, the writ petition is allowed to the extent indicated above. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

Msk/mrm

To

1.The Assistant Commissioner of Labour,
(Conciliation), SIPCOT Project Office,
Irungatukottai, Sriperumbudur,
Kancheepuram.

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

+2cc to Mr.K.Sudalaikannu, Advocate Sr.68570, 67205
+1cc to M/s.Sai raj Associates, Advocate Sr.68382

W.P.No. 13651 of 2019

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srg 26/09/2019