

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.12205 of 2014

and

M.P.No.1 of 2014

The Management of
Coimbatore District Consumers
Cooperative Wholesale Store Limited,
No.K-881, R.S.Puram,
Coimbatore - 2
Rep.by its Personnel Officer Incharge ..Petitioner

Vs.

1.The Presiding Officer,
Labour Court, Coimbatore.

2.Ms.A.P.Manimekalai ..Respondents

Prayer : Writ Petition filed under Article 226 of the
Constitution of India praying to issue a Writ of Certiorari,
calling for the records of the 1st Respondent in I.A.No.1724/2013
in I.D.No.163/2005 and quash its order dated 24.2.2014.

For Petitioner : Mr.Anand Gopalan
For M/s.T.S.Gopalan and Co.

For Respondents : R1 - Labour Court
R2 - No appearance

O R D E R

The order dated 24.02.2014 passed in I.A.No.1724/2013 in
I.D.No.163/2005 is under challenge in the present writ petition.

2. Admittedly, the Industrial Dispute was raised by the 2nd
respondent in I.D.No.163 of 2005. The Preliminary issue
regarding the fairness of the Domestic Enquiry was proposed to
be adjudicated. In respect of the adjudication of the fairness
of the Domestic Enquiry, the Labour Court also framed two
Preliminary issues, which reads as follows:

"(1) Whether the enquiry officer conducted the enquiry by observing the principles of natural justice?

(2) Whether the findings of the enquiry officer are based on the acceptable legal evidence?"

3. In respect of these Preliminary issues, which was framed on 16.03.2011, the petitioner had marked two documents as Exts.w.1 and W2. On the side of the respondent Management, the respondent has marked Exts.M.1 to M.11.

4. The learned counsel for the petitioner, at this point of time, made a submission that the Labour Court ought to have adjudicated these Preliminary issues before allowing the parties to mark all other documents. Contrarily, the workman changed the learned counsel on record and filed an Interlocutory Application in I.A.No.1724 of 2013, seeking permission of the Labour Court to mark 61 documents as Exhibits on her side. The Labour Court allowed the Interlocutory Application and permitted the workman to file all the 61 documents. Such a procedure adopted is improper and as per the procedures established, the Labour Court only after ascertaining the fairness of the Domestic Enquiry, may accept the documents from both the workman as well as the Management. In other words, if the enquiry is found improper or not just, then alone, the Labour Court can go for further consideration and if the Domestic enquiry was found just and proper, then the Labour Court can accept the other documents or evidences and thereafter, proceed with the Industrial Dispute.

5. In the present case, in violation of these established procedures, Labour Court even while framing the Preliminary issues and before adjudication of these Preliminary issues, allowed the Interlocutory Application filed by the workman, seeking permission to mark 61 documents as Exhibits, which is improper and therefore, the writ petitioner is constrained to move the present writ petition.

6. It is needless to state that the purpose of framing the Preliminary issues is to ensure that, Whether the Domestic Enquiry was conducted in a just and proper manner. If the Domestic Enquiry was not conducted in a just and proper manner, then the Labour Court can conduct an enquiry by adjudicating the documents as well as the evidences by permitting the parties to adduce evidences. Thus, deciding of the Preliminary issues has a definite meaning and purpose and that is the reason why, the Labour Courts are expected to decide the Preliminary issues regarding the fairness of Domestic Enquiry and therefore, proceed with the adjudication, if necessary.

7. This being the principles to be followed, the Labour Court has committed an error in allowing the Interlocutory

Application filed by the workman, granting permission to mark 61 documents, which all are unconnected and not relevant for the purpose of deciding the Preliminary issues regarding the fairness of the Domestic Enquiry.

8. Accordingly, the order dated 22.04.2014 passed in I.A.No.1724 of 2013 in I.D.No.163 of 2005 is quashed and the writ petition stands allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

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To

The Presiding Officer,
Labour Court, Coimbatore.

+1 CC to M/s.T.S. Gopalan & Co, Advocate sr 87507

W.P.No.12205 of 2014

PM(CO)
SP(21/11/2019)



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