

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :04.09.2019

CORAM

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

W.P.No.23234 of 2014

United Labour Federation (Regn.No.2667/CNI)
Rep.by its Secretary,
No.149, Thambu Chetty Street,
CJ Complex, 4th Floor,
Chennai - 600 001.

..Petitioner

..Vs..

- 1.The State of Tamil Nadu,
Rep.by its Secretary,
Department of Labour and Employment,
Fort St.George, Chennai - 600 009.
- 2.The Management of Ultra Tech Cements Ltd.,
Arakonam Cements Works,
Chitheri Village, Arakonam Taluk,
Vellore District.
- 3.Well Fabs,Vellore District
- 4.Abak
- 5.K.Krishnama Naidu
- 6.B.K.Dilli
- 7.G.S.Nagarathinam
- 8.K.Kuppusamy Contract Works
Vellore District.
- 9.K.Kuppan
- 10.J.Elampuranam
- 11.K.Ramesh
- 12.R.Thennarasu
- 13.Krishna Kottingu
- 14.Thiru. Madhu
- 15.Rajarani A/C Repair Works
Vellore District

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records in connection with G.O. (D) No.468, Labour and Employment dated 19.10.2012 and quash the same and further direct the first respondent State of Tamil Nadu

to refer the Industrial dispute raised by the petitioner union dated 09.01.2008 for adjudication.

For Petitioner : Mr.V.Prakash

For Respondents: Mr.C.Manohar Gupta
for M/s.Gupta & Ravi
for R3 to R9, R11, R13 to R15

Mr.Sanjay Mohan
for M/s.S.Ramasubramanian
Associates for R2

Mr.N.Sakthivel
Additional Government Pleader
for R1

No appearance for R10 & R12

O R D E R

The Government Order issued in G.O. (D) No.468, Labour and Employment dated 19.10.2012, rejecting the claim of the writ petitioner United Labour Federation to refer the matter to the Labour Court is under challenge in the present writ petition.

2. The learned Senior Counsel appearing on behalf of the writ petitioner made submissions that the Government rejected the claim of the writ petitioner federation to refer the dispute to the Labour Court on certain irrelevant considerations. Relying on the Judgment of Shaw Wallace & Co.Ltd., vs. State of Tamil Nadu and Ors., in Writ Appeal No.225 of 1987, the learned Senior Counsel is of an opinion that the Government ought not to have rejected the claim of the writ petitioner federation for referring the disputes to the Labour Court for adjudication.

3. The learned counsel appearing for the second respondent Management brought to the notice of this Court that during the pendency of the writ petition 12(3) settlements were entered into between the recognized Unions as well as the Contractors. Such 12(3) settlements are binding on all the parties and therefore, the Government Order lost its relevance and significance. However, the said contentions are disputed by the learned Senior Counsel appearing on behalf of the writ petitioner by stating that undoubtedly the settlements were signed. However, certain claims are yet to be resolved and in respect of those claims the matter require further consideration and accordingly, the matter is to be referred to the Labour Court for further adjudication.

4. The learned counsel appearing on behalf of the Contractors also admitted the fact that settlements were entered into between the parties and the disputes were already resolved. Thus, no further adjudication is required.

5. Considering the submissions made by the learned Senior Counsel as well as the other learned counsels appearing for the parties, this Court is of an opinion that admittedly certain developments took place during the pendency of the writ petition and a 12(3) settlement was also arrived between the parties. Under these circumstances, the Government also has to take note of the 12(3) settlements and reconsider the issues for taking a fresh decision in respect of the claims set out by the writ petitioners. Accordingly, the impugned order passed by the first respondent in G.O.(D) No.468, Labour and Employment, dated 19.10.2012 is quashed and the matter is remanded back to the first respondent for reconsideration. The first respondent is directed to consider the terms and conditions of the 12(3) settlements entered into between the parties and take a decision. The respective parties are also permitted to submit their additional representations/explanations, if any, along with the documents enabling the Government to consider the entire issues in respect of the claims set out by the writ petitioner federation. Consequently, the first respondent is directed to consider all the issues raised by the parties concerned and in the light of the 12(3) settlement arrived and take a decision and pass orders on merits and in accordance with law as expeditiously as possible and preferably within a period of 12 weeks from the date of receipt of a copy of this order. The respective parties are at liberty to submit their documents, explanations and representations, if any, within a period of two weeks from the date of receipt of a copy of this order.

6. Accordingly, the writ petition stands disposed of. No costs.
Pns

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

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

+lcc to M/s.Gupta & Ravi, Advocate, SR.No.76412
+lcc to M/s.S.Ramasubramaniam & Associates Advocate, SR.No.76483
+lcc to M/s.K.Sudalaikannu, Advocate, SR.No.76624
+lcc to the Govt.Pleader, Vide Sr.No.76881

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Kak(23/10/2019)



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