

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 15.10.2019

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.28298 of 2014

&

M.P.No.1 of 2014

The Management of Kempf (India) Limited,
rep by its Director,
271/2 Pollachi Road,
Malumichampatti Post,
Coimbatore - 21.

...Petitioner

...Vs...

1.The State of Tamil Nadu,
rep by its Principal Secretary,
Labour and Employment Department,
Fort St.George, Chennai - 09.

2. Kempf Employees Union
Rep by its General Secretary,
1/82, M.P.M.Nagar,
Eachanachari, Chettipalayam Road,
Coimbatore.

(Amended as per order
dated 11/02/2016 by TSSJ in WMP.3161/16)

3.The Presiding Officer,
The Industrial Tribunal,
City Civil Court, Chennai - 104.

...Respondents

Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records of the first respondent relating to G.O.(D) No.499 Labour and Employment (D1) Department and quash the order of reference dated 28.09.2013.

For Petitioner : Mr.R.Asokan
For Respondents : Mr.D.Suriyanarayanan, AGP
(for R.1)
Mr.K.M.Ramesh (for R.2)
R3 : Tribunal

ORDER

The order of the first respondent issued in G.O.(D)No.499 Labour and Employment (D1) Department is sought to be quashed in the present writ petition.

2.The Government Order impugned is a reference made in respect of the claims raised by the second respondent. The learned counsel appearing on behalf of the petitioner mainly contended that the reference made by the Government itself is irregular and not in consonance with the established principles. The Government has failed to consider the facts and circumstances placed by the writ petitioner Management. The subjects considered by the Government for passing an order of reference is improper and those subjects cannot be subject matter for reference and under these circumstances, the impugned order is liable to be scrapped. He further urged this Court by stating that the stale claims were also included in the impugned Government Order for reference, which would cause prejudice to the interest of the writ petitioner management.

3.This Court is of the considered opinion that entertaining the writ petition at the reference stage may not be done in a routine manner. In all these circumstances, the reference made by the Government is to be adjudicated by the Competent Tribunal/Labour Court and by the parties concerned. The writ jurisdiction and the power of judicial review can be exercised only on certain exceptional grounds and therefore, the issues raised on merits cannot be adjudicated in the Government Order, wherein the Government made a reference for adjudication. All the merits and demerits raised in the writ petition sought to be adjudicated with reference to the documents as well as the evidences and such an exercise to be done by the competent Tribunal/Labour Court. The High Court under Article 226 of the Constitution of India cannot adjudicate issues with reference to the original documents and the evidences. All such adjudications are to be done before the Competent Court.

4.It is brought to the notice of this Court that the parties had also appeared before the Tribunal concerned and the trial is in progress. The learned counsel appearing on behalf of the petitioner also admits the fact that the natural dispute raised is in the process of adjudication and posted for arguments. Under these circumstances, this Court is not inclined to entertain the writ petition and the writ petitioner as well as the respondents are at liberty to raise all the grounds raised in this writ petition before the Tribunal concerned for effective adjudication of the issues. The Tribunal also has to consider all the issues on merits and pass orders as expeditiously as possible.

5.With the above observations, the writ petition stands disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

mrm

To

1.The State of Tamil Nadu,
rep by its Principal Secretary,
Labour and Employment Department,
Fort St.George, Chennai - 09.

2.The Presiding Officer,
The Industrial Tribunal,
City Civil Court, Chennai - 104.

+1 cc to Mr.R.Ashokan Advocate sr85973

+1 cc to Mr.K.M.Ramesh Advocate sr85979

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aa19/11/2019