

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 18.07.2019

Delivered on: 19.07.2019

Coram

The Hon'ble Mr.Justice V.PARTHIBAN

W.P.No.21250 of 2019
and
W.M.P.No.20456 of 2019

Royal Enfield Employees Union,
rep.by its General Secretary
Reg.No.3617/CNI
NO.5,Dr.Vasudevan road,
Kilpauk, Chennai

... Petitioner

Vs.

- 1.State of Tamil Nadu,
rep.by the Secretary,
Labour and Employment Department,
Secretariat, Chennai-600 009
- 2.The Commissioner of Labour,
Teynampet, Chennai-6
- 3.The Deputy Commissioner of Labour,
Sriperambudur, Kancheepuram District.
- 4.The Management,
Royal Enfield,
(A Unit of Eicher Motors Ltd.,)
No.A-19, Sipcot Industrial Growth Centre,
Oragadam, Kancheepuram District-602 105

.... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the first respondent to issue a G.O. referring the dispute pending on the file of the 3rd respondent in Aa/572/2019 between the petitioner Union and the 4th respondent within a time frame as per Section 10(1) of the Industrial Disputes Act, 1947 and also to issue orders under Section 10(B) directing the 4th respondent to permit the workers to work

in the places where they worked before transfer until the settlement of the dispute.

For Petitioner	..	M/s.N.G.R.Prasad for M/s.K.C.Karl Marx K.C.
For Respondents	..	Mr.J.Pothiraj, Spl.G.P.for R1 to R3

ORDER

The grievance of the petitioner Union is that the Union was formed on 29.04.2018 and the formation of the same was communicated to the 4th respondent Management on 29.04.2018. According to them, the 4th respondent has been targeting the workmen, who are associated with the petitioner Union and was indulging in various unfair labour practices. In order to send out a threat to the members of the petitioner Union, the 4th respondent Management has resorted to indiscriminate transfer of office bearers of the Union and also some of the members of the Union to various places outside the State of Tamil Nadu.

2.According to the petitioner herein, in view of belligerent attitude of the Management towards the members of the petitioner Union, resulting in several disputes, the petitioner Union has taken the same before the Conciliation Officer. One such dispute was raised in Aa.No.572 of 2019 between the petitioner Union and the 4th respondent Management. In response to the dispute raised by the petitioner Union, the 3rd respondent herein has issued notice on 05.07.2019 to the Management and initial conciliation was held on 12.07.2019. According to them, the 3rd respondent has not utilised his office to prevail upon the Management to withdraw the transfer orders issued against several workmen indiscriminately. As the Management is taking vindictive action against the members of the petitioner Union, the present writ petition has been filed seeking for a direction to the 3rd respondent to complete the exercise of conciliation and submit a report to the Government, so that, the petitioner Union would be in a position to obtain orders of reference in case of failure and also obtain directions from the Government under Section 10(B) of the Industrial Disputes Act.

3.Considering the limited nature of prayer as sought in the writ petition, this Court felt that the writ petition itself could be disposed of, since ultimately the disputes as raised by the petitioner Union have to be

conciliated first and in case of failure, the same have to be adjudicated by an Industrial Adjudicator and such disputes cannot be settled by this Court exercising its extraordinary jurisdiction under Article 226 of the Constitution of India.

4. In view of the above, this Court is inclined to dispose of the writ petition with a direction to be issued to the 3rd respondent and to the Government, viz., the first respondent as under:-

The 3rd respondent, who is hearing the dispute and initiated the conciliation proceedings, is directed to complete the proceedings by affording opportunity to both the petitioner Union as well as the 4th respondent Management and conclude the same within a period of four weeks from the date of receipt of a copy of this order. In case, the 3rd respondent is not able to come to any settlement as between the petitioner and the 4th respondent, a report may be submitted and the first respondent Government is directed to refer the dispute for adjudication and the Government is also directed to pass appropriate orders under Section 10(B) of the I.D. Act. The 3rd respondent is also directed to advise the 4th respondent Management that the members of the petitioner Union need not be subjected to any vindictive action at their hands, pending conciliation proceedings.

5. The writ petition shall stand disposed of accordingly. No costs. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS IX)

//True Copy//

Sub Assistant Registrar

msk
To

1. The Secretary,
Labour and Employment Department,
Secretariat, Chennai-600 009

2. The Commissioner of Labour, Teynampet, Chennai-6

3. The Deputy Commissioner of Labour,
Sriperambudur, Kancheepuram District.

+1cc to M/s. K.C. Karl Marx K.C., Advocate SR.No. 61717

W.P.No. 21250 of 2019

A.SK (23/07/2019)