

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.12380 of 2017

Tamil Nadu Trade Union Centre,
Register No.1324/VLR,
Thiruvallur Street,
Alamkuppam Village,
Ambur Taluk, Vellore District.
Rep.by General Secretary.Petitioner

vs.

1. The Presiding Officer,
The Industrial Tribunal,
Chennai.
2. The Management,
N.M.Zackrian & Co., Shoe Division,
(FD, Jameel and Bottom),
Gudiyatham Road,
Thuthipet Village and Post,
Ambur Taluk,
Vellore District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records in I.A.No.83 of 2017 in I.D.No.5 of 2013 dated 13.04.2017 on the file of Industrial Tribunal, Chennai, the first respondent herein and quash the same as illegal and direct the second respondent to produce the documents referred in the Schedule in I.A.No.83 of 2017 in I.D.No.5 of 2013 on the file of Industrial Tribunal, Chennai.

For Petitioner : M/s.R.Sankarasubbu

For Respondents : R1-Tribunal
Mr.A.V.Suresh for R2.

O R D E R

The order dated 13.04.2017 passed in I.A.No.83 of 2017 in I.D.No.5 of 2013 is sought to be quashed.

2. The writ petitioner, the Tamil Nadu Trade Union Centre, has filed an Interlocutory Application in I.D.No.5 of 2013, to order the respondent Management to produce the documents as specified form (1) as per Rule 36 of the Tamil Nadu Industrial Dispute Rules, 1958. The dispute was raised in I.D.No.5 of 2013, demanding Dearness Allowance, Traveling Allowance and House Rent Allowance from the Management. The adjudication in the industrial dispute was in progress. According to the Union, there are about 1300 workmen on the roll and as per the Management, there are only 900 workmen. In order to prove their claim, certain documents were sought to be filed, instead of directing the Management to produce those documents, and the Tribunal rejected the Interlocutory Application filed in I.A.No.83 of 2017. Thus, the writ petitioner is constrained to move the present writ petition.

3. The respondent/management states that on behalf of the writ petitioner side, W.W.1 to W.W.3 were fully examined with Exs.W1 to W14 were marked and MW1 was fully examined with Exs.M1 to M7 were marked. By that stage, the petitioner filed an interlocutory application suddenly. The Trade Union demanded schedule of documents, would no way connected with the issues and further, the respondent/Management in these respects completed cross-examination of the petitioner's witnesses with supported list of documents or exhibits hereto. The petitioner/Trade Union has already contested the proceedings and under those circumstances, the interlocutory application was filed. The Tribunal found that both side documents as exhibits with oral evidence to decide the main demands itself completed and the writ petitioner/ Trade Union has intentionally failed to make averments in their own affidavit in authentic manner for production of list of documents to make out this case. The findings of the Tribunal reveals that "the application for production of documents must contain all the necessary materials in order to enable the Tribunal to apply its mind to determine the relevancy of the documents and ascertain whether inspection should be allowed or not and then pass a proper order. It is a settled law that a party cannot be permitted to embark on a fishing of roving enquiry in the hope that some material will come to hand, on the basis of which, he can set out his case".

4. It is contended that "relevancy or otherwise must be explained with materials and documents, enabling the Court to decide the matter. However, no such materials were produced or the relevant documents were also not established. Under these circumstances, the Interlocutory applications were dismissed. This Court is of the considered opinion that the adjudications are in progress and the cross-examination of the witnesses were also completed. The relevant documents sought to be furnished is not established by the writ petitioner.

5. Under these circumstances, the Tribunal is right in coming to a conclusion that such interlocutory application, in the absence of any detail, cannot be entertained. Accordingly, the award of the Labour Court is candid and there is no infirmity or perversity. Consequently, the order dated 13.04.2017 passed in I.A.No.83 of 2017 in I.D.No.5 of 2013 is confirmed.

6. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

To

The Presiding Officer,
The Industrial Tribunal,
Chennai.

+lcc to Mr.N.Chinnaraj, Advocate Sr.87271
+lcc to Mr.R.Sankarasubbu, Advocate Sr.87121

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