

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.01.2019

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.33019 of 2018
and WMP.No.38284 of 2018

AVTEC Thozhilalar Munnetra Sangam
Rep. by its General Secretary
Mr.Manjunathappa
AVTEC Ltd., (PPD) Poonapalli Village
Mathagondapalli Post
Hosur-635 114

Petitioner

Vs

1. The Assistant Commissioner of Labour (Conciliation)
No.18, Sevatha Gounder Street
Colombo Stores backside
Krishnagiri
2. The Management of AVTEC Ltd.,
Rep. by its Managing Director
Poonapalli Village
Mathagondapalli Post
Hosur 635 114

Respondents

Prayer:- This Writ Petition is filed, under the Article 226 of Constitution of India, to issue a writ of Mandamus directing the 1st respondent herein to decide the dispute with regard to the conferring of the protected workman status on Mr.V.Sivaraj, Vice President of the Petitioner Union expeditiously and within such date as stipulated by this Court, and consequently direct the 2nd respondent to await the decision of the 1st respondent in this regard.

For Petitioner : Mr.V.Prakash, Senior counsel
for Mr.P.Ganeshram

For Respondents: Mr.Sanjay Mohan
for M/.RamaSubramanian Associates
for R2
Mr.N.Srinivasan, AGP for R1 and R3.

ORDER

The Prayer in the Writ Petition is to issue a writ of Mandamus to direct the 1st respondent to decide the dispute with regard to conferring of the protected workman status on Mr.V.Sivaraj, Vice President of the Petitioner Union expeditiously and within such date as stipulated by this Court, and consequently direct the 2nd respondent to await the decision of the 1st respondent in this regard.

2. It is averred in the Writ Petition that the 2nd respondent Management has charge sheeted a number of workers of whom disciplinary proceedings are pending against 10 workers and have been under suspension for more than 1 year. One of the office bearers namely vice president of the Union Mr.V.Sivaraj (E.No.190213) is under suspension since 16.06.2017.

3. The Petitioner Union submitted a list of members for whom protected workman status was sought on 27.09.2018 in accordance with the rules framed under the Industrial Disputes Act. The 2nd respondent Management agreed to give protected workman status for 4 workers viz., N.Manjunathappa (General Secretary), L.Dinesh (Vice President), S.Rajaganapathy (Joint Secretary) and S.Ravi (Treasurer) and only in the case of Mr.V.Sivaraj, in view of the pendency of charges against him, the 2nd respondent Management declined to give protected workman status.

4. As against the said act of 2nd Respondent/Management, the Petitioner Union has raised the issue before the 1st respondent-the Assistant Commissioner of Labour (Conciliation), in accordance with the provisions of the Industrial Disputes Act on 08.11.2018.

5. According to the learned senior counsel appearing for the Petitioner, the said proceedings before the 1st respondent-Assistant Commissioner of Labour (Conciliation) is pending for consideration. It is also stated that in the meanwhile, V.Sivaraj was given a 2nd show cause notice with the findings of the enquiry officer to which he has given his reply on 05.12.2018 and the 2nd respondent/Management is likely to pass final orders, before the 1st respondent passing orders on the issue raised before him. The learned senior counsel for the Petitioner Union submits that the intention of the 2nd respondent/Management is to pass final orders on the disciplinary proceedings issued against V.Sivaraj in order to defeat the rights of the Petitioner Union in respect of granting protected workman status sought by the Union.

6. Insofar as the first limb of prayer i.e., to direct the 1st respondent herein to decide the dispute with regard to conferring of the Protected workman status on Mr.V.Sivaraj, Vice President of the Petitioner Union expeditiously is concerned, the learned counsel for the 2nd respondent submits that he has no objection in directing the 1st respondent to decide the dispute with regard to conferring of the Protected workman status, within time frame as stipulated by this court. Accordingly, this court, directs the 1st respondent to complete the enquiry with regard to conferring the Protected Workman status on V.Sivaraj on or before 22.01.2019 and pass final orders on or before 24.01.2019.

7. Insofar as the second limb of prayer of the Writ Petitioner viz., to direct the 2nd respondent to await the decision of the 1st respondent, is concerned, the learned counsel for the 2nd respondent has raised an objection, but however, considering, the peculiar facts and circumstances of the case, the 2nd respondent undertakes that final orders will not be passed on the disciplinary proceedings against V.Sivaraj, till 24.01.2019.

8. Recording the said statement of the learned counsel for the 2nd respondent, the Writ Petition is disposed of with the above direction. However, the above indulgence shown in this case, should not be taken as a precedent in future. No costs. Consequently, connected WMP is closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

nvsri

Sub Assistant Registrar

To

1. The Assistant Commissioner of Labour (Conciliation)
No.18, Sevatha Gounder Street
Colombo Stores backside, Krishnagiri

2. The Management of AVTEC Ltd.,
Rep. by its Managing Director
Poonapalli Village, Mathagondapalli Post
Hosur 635 114

+1cc to Mr.P.Ganeshram, Advocate, S.R.No.1865

+1cc to Mr.S.Ramasubramanian Associates, S.R.No.1226

+1cc to the Government Pleader, S.R.No.1497

WP.33019 of 2018

SSM(08/01/2019)