

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.12979 of 2019

ORDER:

With the consent of both the parties, this Writ Petition is disposed of at the admission stage.

This Writ Petition is filed for the following relief:

“.....Writ of Mandamus, declaring the proceedings in Lr.No.B/670/2017 dated 24.01.2018 of the 3rd respondent as illegal, arbitrary, high handed and contrary to the provisions of the Industrial disputes Act as well as in violation of Article 14 & 21 of the Constitution of India and consequently direct the respondent No.1, 2 & 3 to refer the dispute raised by the petitioners to the competent labour court for adjudication after setting aside the proceedings of the 3rd respondent in Lr.No.B/670/2017 dated 24.01.2018 in the interest of justice.....”

Heard Sri P.Balaji Varma, learned counsel for the petitioners and the learned Government Pleader for Labour.

It has been contended by the petitioners that they are the employees of the 4th respondent and that the 4th respondent by deceitful manner declared them as Voluntarily Retired Employees. Petitioners further submit that the 4th respondent has meted out 400 such employees and as there is no recognized Union, all the 400 employees have collectively approached the Conciliation Officer-3rd respondent and have raised an Industrial Dispute under the Industrial Disputes Act, 1947 (for short 'the Act') against the illegal action of the 4th respondent. The 3rd respondent on entertaining the complaint of such employees has failed to submit a failure report to the

Government. As far as petitioners are concerned, the 3rd respondent vide proceedings dated 24.01.2018 had categorically stated that no consensus has been arrived between the management and the workers, however instead of filing a failure report, had advised the petitioners to approach the Labour Court.

Learned counsel for the petitioners contends that the 4th respondent had terminated the services of the petitioners under the guise of VRS and VSS scheme during 2014 and after a lapse of five years, the petitioners cannot approach the Labour Court under Section 2-A(2) of the Industrial Disputes Act as there is a limitation of 3 years in the amended Act to approach the Labour Court, except availing an alternative remedy under Section 10 of the Act. Therefore, the petitioners have no other alternative effective remedy except approaching the Conciliation Officer-3rd respondent and if there is any consensus arrived between the management and the workers, the same should be reduced in the form of settlement and if there is no settlement or consensus arrived between the management and workers, the 3rd respondent has to submit a failure report before the Government, enabling the Government to refer the matter to the Labour Court under Section 10 of the Act. Therefore, learned counsel for the petitioners contends that appropriate orders be passed in the writ petition directing the 3rd respondent to submit a failure report as no consensus has been arrived between the petitioners and the 4th respondent management to enable the

Government to refer the matter to the Labour Court under Section 10 of the Act.

On the other hand, learned Government Pleader for respondents contends that the 3rd respondent would consider the case of the petitioners by submitting a failure report to the Government as no consensus has been arrived between the petitioners and the 4th respondent and appropriate orders would be passed in accordance with law after issuing notice to both the parties.

This Court having considered the rival submissions made by the learned counsel on either side, is of the considered view that this writ petition can be disposed of directing the 3rd respondent to submit a failure report in view of the findings made by him in proceedings dated 24.01.2018 to the Government to enable the 1st respondent-Government to pass appropriate orders in accordance with law under Section 10 of the Act.

With the above observations, the Writ Petition is disposed of. No order as to costs.

As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

27.06.2019
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