

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2020

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 11301 of 2020

and

W.M.P.No. 13776 of 2020

The General Secretary
Tamil Nadu General Workers Union
Regn. No. 289/CPT
KTK Thangamani Illam
No. 2/1, Kovur Vaidyanathan Street,
Chintadripet
Chennai - 600 002.

... Petitioner

-vs-

1. The Presiding Officer,
Central Government Industrial Tribunal cum Labour Court,
Shastri Bhawan, 1st Floor, 'B' Wing,
No. 26, Haddows Road,
Chennai - 600 006.
2. The General Manager (Regional Service)
Indian Oil Corporation Limited,
139, Nungambakkam High Road,
Chennai - 600 034.
3. The Deputy General Manager,
IOC Indane Bottling Plant,
143-NCTPS Main Road,
Attipattu Pudhunagar,
Chennai - 600 120.
4. The Management/Owner/Contractor
M/s. V.K. Enterprises
Plot No. 617, 'C' Block,
Flat No. 102, Parimala Pride Apts.,
AECS Layout, Kundalahalli
Bangalore - 560 037.
5. Rajamani, Owner
M/s. PMCC (Contractor Establishment)
C/o. Indian Oil Corporation,

Indane Bottling Plant,
143, NCTPS Main Road,
Attipattu Pudhunagar
Chennai - 600 120.

6. M/s. Vishal Testing and Services,
Rep. by its Managing Director,
No. 6, Dr. Vaidegi Street,
Muthukadu Road,
Kottivakkam,
Chennai - 600 041.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, forbearing the Second to Sixth Respondents from any manner disengaging the services of the members of the Petitioner Union whose names are given in the Annexure to the Petition without taking prior permission from the First Respondent in I.D. No. 73 of 2017.

For Petitioner :Mr. Balan Haridass

For Respondents:Mr. D. Sathyaraj (For R1)
Special Government Pleader
Mr. Anand Gopalan (Standing Counsel)
For M/s. T.S. Gopalan and Co
(For R2 & R3)

O R D E R
(through video conference)

Heard Mr. Balan Haridass, Learned Counsel for the Petitioner, Mr. D.Sathyaraj, Learned Special Government Pleader for the First Respondent and Mr. Anand Gopalan for M/s. T.S. Gopalan and Co., Learned Counsel Second and Third Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition has been filed to restrain the Second to Sixth Respondents from any manner disengaging the services of the members of the Petitioner Union whose names are given in the Annexure to the Petition without taking prior permission from the First Respondent in I.D. No. 73 of 2017 before the Central Government Industrial Tribunal cum Labour Court, Chennai.

3. In response to the aforesaid contentions raised by the Petitioner, an affidavit dated 03.09.2020 has been filed on behalf of the Third Respondent, stating as follows:-

"2. I state that the Petitioner has filed the writ with regard to 63 members of the Petitioner Union, who

are employed by different contractors who have been successful tenderers over a period of time. The apprehension of the Petitioner herein is that there could be a reduction in the scope for the contractor/successful tender even if he is interested to provide employment to these 63 persons. This apprehension is based on the fact that the tender that has now been floated, restricts the maximum number of persons to be engaged to 99 employees only.

3. I state that prior to 2018 there used to be two tenders, one for haulage and housekeeping and one for transportation which included loading and unloading activities. This was changed in last tender, wherein loading and unloading contract was included in the haulage and housekeeping tender. The present tender has reverted back to the earlier system. Loading and unloading activities have been made part of the transportation tender. The present tender is only for haulage and housekeeping. The scope of engagement has not been reduced by this Respondent. In fact this was the system prevailing in 2017 when ID No. 73 of 2017 was referred for adjudication. The change was effected from 01.07.2018 and now we are reverting back to the earlier system. The workmen for whom the petitioner has raised the dispute have taken up employment with the successful tenderer from 01.07.2018 i.e. even after the dispute was referred. Hence, the apprehension of the Petitioner is not well founded. This Respondent has not reduced the scope of work nor has or will prevent the contractors/tenderers from engaging these 63 persons."

The said explanation, which would suffice to protect the interests of the Petitioner at this stage, is placed on record. In view of the same, nothing remains for further consideration in this Writ Petition. It is made clear that all the contentions of the parties are left open to be adjudicated in appropriate legal proceedings, when such occasion arises.

4. Accordingly, the Writ Petition is disposed on the aforesaid terms. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

dm/vjt

To

1. The General Secretary
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Kottivakkam, Chennai - 600 041.
- +1 cc to M/s.T.S.Gopalan ,Advocate Sr.No. 28945

W.P. No. 11301 of 2020

RSV(CO)

RMP(15/09/2020)