



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.07.2021

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.19282 of 2005

Management
Coimbatore District Consumer
Cooperative Wholesale Stores Ltd.,
Chintamani Cooperative Supermarket,
Rep.by General Manager
R.S.Puram,
Coimbatore 641 002.

... Petitioner

Vs

1. The Presiding Officer
Labour Court,
Coimbatore.
2. The Secretary
Chintamani Employees Union,
(AI TUC)
Thyagi Nilayam
99, Rangan Street,
Kattur, Coimbatore.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying to issue a writ of certiorari calling for the records of the labour Court, Coimbatore relating to its award dated 07.03.2005 in I.D.No.339 of 2001 and quash the same.

For Petitioner : Mr.P.Anbarasan

For Respondents : Mr.K.Shanmuganathan for R2



O R D E R

This writ petition has been filed to call for the records of the labour Court, Coimbatore relating to its award dated 07.03.2005 in I.D.No.339 of 2001 and quash the same.

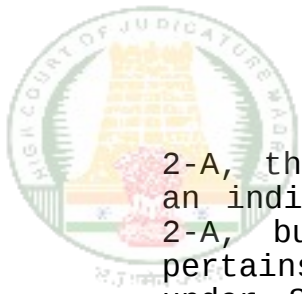
2. The petitioner Management has come forward with the present writ petition challenging the award of the labour Court and the only contention is that Union cannot raise a dispute pertaining to a single workman and that the award of the labour Court interfering with the punishment of stoppage of increment may not be justified when Union is not competent to raise the dispute. For deciding the issue, relevant portion of Section 2-A and 2(k) of the Industrial Disputes Act, 1947 are extracted below.

The amended Section 2-A of the Industrial Disputes Act, 1947 reads as follows:-

(2) Where no settlement is arrived at in the course of any conciliation proceeding taken under this Act in regard to an industrial dispute referred to in sub-section (1), the aggrieved individual workman may apply in the prescribed manner, to the Labour Court for adjudication of such dispute and the Labour Court shall proceed to adjudicate such dispute, as if such dispute has been referred to it for adjudication and accordingly all the provisions of this Act relating to adjudication of industrial disputes by the Labour Court shall apply to such adjudication".

2(k) "industrial dispute" means any dispute or difference between employers and employers, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person;"

3. The individual employee is entitled to raise a dispute provided it falls under the definition of Section 2-A and not otherwise, as per the amended Section 2-A of the Industrial Disputes Act, 1947, which came into force vide Notification No.2278 (E) dated 15.09.2010, providing a direct access for an individual to the Labour Court or Tribunal to question his retrenchment, discharge, dismissal, termination of services, etc. and in that event, there will be no need for the individual to approach the 'appropriate Government' for making a reference. That is, with regard to the service condition, dispute has to be raised by the Union. If it is a case of depriving of employment, it is open to the individual to raise a dispute. Even prior to introduction of Section 2-A or after the introduction of Section



2-A, the Union is empowered to raise the dispute pertaining to an individual workman even for the cases falling under Section 2-A, but individual employees cannot raise a dispute if it pertains to any other punishment other than the one mentioned under Section 2-A. Only Union alone is empowered to raise a dispute more particularly like the present case on hand that is stoppage of increment with cumulative effect for a period of two years, etc. Hence the contention of the Management, that the Union cannot espouse the cause of the workman, be it an individual workman or group of workmen, may not be correct. Hence, I find that the award cannot be interfered with on that ground and the writ petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS-V)

// True Copy //

Sub Assistant Registrar

dpq

To

1. The Presiding Officer
Labour Court,
Coimbatore.
2. The Secretary
Chintamani Employees Union,
(AI TUC)
Thyagi Nilayam
99, Rangan Street,
Kattur, Coimbatore.

W.P.No.19282 of 2005

GPL(CO)
RLP(16/09/2021)