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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2021

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
and
THE HON'BLE MS.JUSTICE R.N.MANJULA

W.A.No.1522 of 2019
and C.M.P.No.10337 of 2019

The Management
K.N.M.Mills(P) Limited,
Coimbatore - 19.

.. Appellant

Vs

1.R.Prabhu

2.The Presiding Officer,
Labour Court, Coimbatore.

.. Respondents

Appeal filed under Clause 15 of Letters Patent against the order dated 03.10.2018 made in w.P.No.1710 of 2018.

Prayer in W.P.No.1710 of 2018:

Writ petition filed under Article 226 of the constitution of India praying for the issuance to a writ of certiorarified Mandamus, to call for the records from the 1st respondent quash the preliminary order passed by the 1st Respondent Labour Court dated 15.09.2017 in I.D.No.27 of 2012 as illegal arbitrary and contrary to law and consequently hold that the domestic enquiry conducted by the 2nd Respondent in respect of the Show Cause Notice dated 01.06.2011 is in violation of principles of natural justice and unfair

For Appellant : Mr.S.Saravanan

For Respondents : Mr.Balan Haridas for R1
R2 - Court

JUDGMENT

(Delivered by M.M.SUNDRESH, J.)

This appeal lies on a very narrow compass. The first respondent raised the dispute before the Labour Court by raising the claim under Section 2-A(2) of the Industrial Disputes Act. Pending the proceedings before the Labour Court in I.D.No.27 of



2012, strangely, the first respondent filed an application stating that the enquiry was not fair and proper. The Labour Court decided the preliminary issue holding that the enquiry was conducted in a fair manner. This was put to challenge before the learned Single Judge who set aside the order and remand the matter for fresh consideration. Challenging the same, the present appeal has been filed.

2. We are not reiterating the settled position of law in this regard. The question of fairness in a domestic inquiry is a matter to be proved by the employer. If the employer requests for the same, it is for the Labour Court to consider it. Even then, the decision made there under is not justiciable by invoking Article 226 of the Constitution of India. To put it differently, it is for the Labour Court to decide at the time of deciding the matter one way or the other. Any primary finding will not stand in the way of the Labour Court to adjudicate upon the said issue at the time of deciding it one way or the other. Therefore, the entire issue is nothing but academic. We are of the view that the first respondent ought not to have filed this application. If the Labour Court comes to the conclusion that the enquiry is not fair and proper then the consequence would follow while considering the final relief sought for.

3. In such view of the matter, the writ appeal stands disposed of by making it clear that there is no need to set aside the preliminary order passed with the observation that the Labour Court shall frame the issue and decide this at the time of hearing the I.D. finally without being influenced by the preliminary order passed by it and the orders passed by this Court. We make it clear that in the event of any conclusion being arriving at, enquiry is not fair and proper, the consequence would follow. No costs. Consequently, connected miscellaneous petition is closed.

4. Taking into consideration the long pendency of the dispute raised, we direct the Labour Court, to dispose of I.D.No.27 of 2012 within a period of four months from the date of receipt of a copy of this judgment.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

mmi/ssm



To

The Presiding Officer,
Labour Court, Coimbatore.

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+1cc to Mr.S.Saravanan, Advocate, S.R.No.31607

W.A.No.1522 of 2019

NRL (CO)
SU (16/07/2021)