

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2021

CORAM

THE HONOURABLE MR. JUSTICE M.GOVINDARAJ

WP NO.31236 OF 2016

AND

WMP NOS.27106/2016, 21602, 21603 & 21605 of 2019

The Management of
Alstom Transport India Limited
S.F.No.40/B and 41/2A,
Kankeyampalayam Village,
Coimbatore - 641 401.
Rep. by its Manager - Human Resources ... Petitioner
Versus

1.The Assistant Commissioner of Labour
Conciliation III - in charge
Dr.Balasundaram Road,
Coimbatore - 641 018.

2.K.Sathish Kumar
3.S.Thivakar Karthick
4.V.Murugesan
5.N.Santhakumar
6.K.Suresh Kumar ... Respondents

PRAYER: Writ Petition filed under Article 226 of the
Constitution of India praying to issue a Writ of Certiorarified
Mandamus, calling for the records of the first respondent in
Na.Ka.No.31/2016 to 35/2016, quash the order dated 06.08.2016
and forbear the first respondent from proceeding with
conciliation in Na.Ka.No.31-35/2016.

For Petitioner : Mr.Anand Gopalan
for M/s.T.S.Gopalan & Co.,
For Respondent -1 : Mr.M.Elumalai
Government Advocate
For Respondents : Mr.A.Deivasigamani
2 to 6

O R D E R

The Writ Petition has been preferred by the petitioner/
Management against the conciliation entertained by the first
respondent.

2. According to the petitioner, as per Section 2A(2)

and (3) of the Industrial Disputes Act, 1947, any dispute with regard to discharge, dismissal, retrenchment and otherwise termination of service shall be raised within three years from the date of such order. According to the petitioner, the dispute is raised after a period of five years and therefore, the Conciliation Officer shall not entertain the same.

3. This Court in W.P.Nos.9355 to 9359 of 2016, by order dated 14.03.2016 has directed the first respondent Conciliation Officer to entertain the conciliation as there is no limitation for entertaining the dispute for conciliation. Before the Conciliation Officer, the petitioner/ Management has raised an objection that the dispute raised by the workers is barred by limitation, but it was not entertained on the ground that it is for the Labour Court to decide. Against which, the present Writ Petition has been filed, in which, this Court has granted an order of interim stay. However, it is reported that the conciliation ended in failure and the dispute was referred to the Labour Court and the same is pending in I.D.Nos.85 to 89 of 2016 on the file of Labour Court, Coimbatore.

4. The Writ Petitioner has filed an application for amendment to include the consequential prayer of forbearing the Labour Court from prosecuting the Industrial Dispute.

5. From the submissions made by both sides, it is inferred that the crucial issue is whether the dispute raised by the respondents / workers is within limitation or it is barred by limitation as per Section 2A(2) and (3) of the Industrial Disputes Act, 1947. Instead of delving into the merits of the case, it would suffice to direct the Labour Court to take up the issue of limitation as a Preliminary issue and decide the same and thereafter, to proceed further.

6. Therefore, a direction is given to the Labour Court, Coimbatore, to frame a Preliminary issue of limitation as raised by the petitioners in I.D.Nos.85 to 89 of 2016 and pass orders and thereafter, proceed further.

7. The Writ Petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

TK

To

1.The Assistant Commissioner of Labour
Conciliation III - in charge
Dr.Balasundaram Road,
Coimbatore - 641 018.

2.The Labour Court
Coimbatore.

+1 CC to M/s.T.S.Gopalan & Co.,, Advocate Sr No.19433

+1 CC to M/s.K.Sathiya Murthi,Advocate Sr No.19539

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PL(CO)
RG.20.04.2021



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