

WMP No. 16204 of 2021
in
WP.No. 13073 of 2021

S. VAIDHYANATHAN,J.

This Miscellaneous Petition has been filed seeking modification of the order passed by this Court dated 22.06.2021 in W.P.No.13073 of 2021 directing the Writ petitioner-Management not to take any disciplinary action against the workers who went on strike or deduct wages for the period of strike.

2. The learned counsel appearing for the petitioner submitted that though in the course of hearing of the Writ Petition in W.P.No.13073 of 2021 dated 22.06.2021, learned counsel for the Management stated that the Management will proceed with the disciplinary proceedings with respect to one employee alone as it was allegedly the misconduct not connected with the dispute, in paragraph 8 of the order dated 22.06.2021 passed by this Court in W.P.No.13073 of 2021, it is stated that it is open to the Management to either drop or proceed with the disciplinary proceedings,

without suspending the workers and therefore he seeks clarification of the said order. He further submitted that the Management instead of confining themselves to what was agreed upon is now taking disciplinary action against the Employees Union office bearers and other workers regarding the strike which is the very subject matter of conciliation.

3. The contention made by the learned senior counsel for the Management has been mentioned in para 7 of the order dated 22.06.2021, which is extracted hereunder.

"7.Learned Senior Counsel for the Management stated that though the employer is entitled to suspend an employee, on advice the Management has decided not to suspend any of the employees and that the employees have to report for work from tomorrow."

4. However, in order to maintain normalcy, without curtailing the rights of the employees, liberty has been given to the employer in the last sentence in para 8 of the said order.

5. Even without the said sentence, it is open to be the employer to take action however, in compliance with the provisions of Industrial Disputes Act, 1947, moreso Section 33, if attracted.

6. In view of the same, this Court is not inclined to modify the order and delete the sentence as stated supra. If the sentence is removed, there is no embargo and even discretion will be removed. In any event, under the guise of application for modification, if the Union is trying to review the order dated 22.06.2021, it is not permissible.

7. With the above observation, this Miscellaneous Petition is dismissed. However, it is made clear that if the petitioner is aggrieved by the order dated 22.06.2021, it is open to him to prefer an appeal before the Division Bench and certainly should not seek modification of the order.

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S.VAIDYANATHAN, J

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8. It represented by Mr.Sanjay Mohan, learned Senior Counsel appearing for the Management that the Conciliation was ended in failure and he is not aware as to whether the failure report has been submitted to the Government. If the final report is already submitted to the Government, the observation made in order dated 22.06.2021 will be taken care of by the Government for appropriate orders to be passed in the light of Section 10 of the Industrial Disputes Act, 1947.

27.08.2021

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