

27.04.2022

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srm

W.P.A. No. 6511 of 2022

Albert David Limited

Versus

State of West Bengal & Ors.

Mr. Arunava Ghosh,
Mr. Ravi Kumar Dubey

...for the Petitioner.

Mr. Bikash Ranjan Bhattacharya,
Mr. Aninda Lahiri,
Mr. Manasah Malakar

...for the Respondent No.3.

Mr. Chandi Charan De,
Mr. Anirban Sarkar

...for the State-respondents.

Affidavit of service filed by the petitioner is taken on record.

The order of reference passed on 3rd January, 2022 is under challenge in this writ petition.

It is submitted on behalf of the petitioner that an industrial dispute arose between the petitioner and the 3rd respondent and the said dispute was referred to the Industrial Tribunal constituted under Section 7A of the Industrial Disputes Act, 1947.

Learned counsel submits that in the issues for reference, the contention of the 3rd respondent was taken into consideration ignoring the contention raised by the petitioner. In view of the provision laid down under Section 10(4) of the Act of 1947, the Tribunal

shall confine its adjudication to those points referred to for adjudication and matters incidental thereto and cannot travel beyond the issues placed for reference before it by the order dated 3rd January, 2022.

For example, the issue No.4 in the reference deals with the justification of dismissal of 11 employees by the company. But the stand taken by the company/petitioner is that the said employees were not dismissed but they abandoned their service. Learned counsel apprehends that such contention of the petitioner, amongst others, shall not be taken into consideration by the Tribunal as it is not included in the issues for reference.

Per contra, learned Counsel appearing for the 3rd respondent submits that the petitioner shall be at liberty to place its defence against the issues framed by the Government for reference, at the time of hearing before the Tribunal.

Upon consideration of the submissions made on behalf of the parties and material on record, this Court is inclined to hold that in terms of the provision laid down under Section 10(4) of the Act of 1947, the petitioner shall be at liberty to place matters incidental to the issues raised and also make its submission to controvert the allegations made out by the 3rd respondent, under reference to the Tribunal. Any point/matter incidental to the issues under reference

shall be dealt with by the Tribunal in dealing with the reference in question.

With the above observations, the writ petition being WPA 6511 of 2022 is disposed of.

However, there shall be no order as to costs.

Since no affidavit is invited, the allegations contained in the writ petition are deemed not to be admitted.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)