



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 22.3.2022
CORAM
THE HONOURABLE Mr.JUSTICE D.KRISHNAKUMAR

WEB COPY

W.P.No.2065 of 2022
and W.M.P.No.2215 of 2022

1 The Management of Jbm Auto System Pvt. Ltd.
Rep. by its A.G.M. J.Anand ... Petitioner

Vs.

1 The Secretary to Government,
Government of Tamil Nadu,
Labour Welfare and Skill Development,
Fort St. George, Chennai 600009.

2 I.N.T.U.C. Indian National Engineering
Employees Union, I.N.T.U.C. Bhavan,
270, M.T.H. Road, Sidco Estate,
Ambattur, Chennai 600 098.

3 Kancheepuram Pothu Thozhilalar Sangam
Rep. by its General Secretary E.Muthukumar ... Respondents

(Respondent No.3 impleaded by order dated 22.3.2022 in
W.M.P.No.7051 of 2022)

Prayer:- The Writ Petition is filed under Article 226 of the
Constitution of India, seeking for a Writ of Certiorari,
calling for the records of the 1st respondent in G.O.(D) No.5.
Labour Welfare and Skill Development (A2) Department and quash
its order dated 05/01/2022.

For Petitioner : Mr.S.Ravindran, Sr. Counsel for
Mr.S.Bazeer Ahamed
For Respondent No.1: Mr.V.Manoharan, A.G.P.
For Respondent No.2: No appearance
For Respondent No.3: Mr.S.Shinu



O R D E R

According to the petitioner, G.O. (D) No.571 Labour Welfare and Skill Development (A2) Department, dated 10.12.2021 referred charter of demands and issues relating to termination, transfer and suspension pending enquiry of technicians for adjudication to Industrial Tribunal, Chennai which has been numbered as O.P.No.33 of 2021. Subsequently, by G.O. (D) No.5 dated 5.1.2022, the first respondent invoked its powers under Section 10B of the Industrial Disputes Act, 1947 and advised the petitioner that the orders of transfer, orders of termination and orders of suspension pending enquiry should be kept in abeyance till the disposal of the dispute by the Industrial Tribunal.

2.The learned Senior counsel appearing for the petitioner would submit that the respondent Union sent a communication on 19.6.2021 and based on the said communication, the Government also obtained report from the Commissioner of Labour and passed the impugned order. According to the learned counsel appearing for the petitioner, the short ground involved in the instant writ petition is that the first respondent has not provided an opportunity to the petitioner prior to passing the impugned order. If an opportunity is granted by the first respondent, the petitioner Management would have placed substantial materials before the first respondent to reject the claim of the respondent Sangam and therefore, the impugned order is liable to be set aside.

3.Though notice served and name is also printed in the cause list, none appeared for the second respondent Union. Another Union viz., Kancheepuram Pothu Thozhilalar Sangam is impleaded as party viz., third respondent herein.

4.The learned Additional Government Pleader appearing for the first respondent would submit that on seeing the impugned order, the contention of the petitioner cannot be disputed and therefore, the Court may pass appropriate orders. The learned counsel appearing for the third respondent would submit that an opportunity shall be granted to the aggrieved parties and pass appropriate orders.

5.On perusal of the impugned order, there is no reference to show that opportunity has been granted to the petitioner Management to put forth their defence before the first respondent. Therefore, this Court come to the conclusion that



the first respondent passed the impugned order without giving an opportunity to the petitioner Management and as such, the first respondent violated the principles of natural justice.

6. In view of the above, the impugned order is set aside and remanded to the first respondent to consider afresh, after providing an opportunity to the petitioner Management as well as the third respondent or any other aggrieved parties and pass appropriate orders on its own merit and in accordance with law, as expeditiously as possible preferably within a period of 12 weeks from the date of receipt of copy of the order.

7. Consequently, the writ petition stands allowed with the above directions. No Costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS III)

//True Copy//

Sub Assistant Registrar

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To
The Secretary To Government, Government of Tamil Nadu,
Labour Welfare And Skill Development,
Fort St. George, Chennai 600009.

+1 cc to Mr.S.Bazeer Ahamed Advocate sr19622
+1 cc to the Government Pleader sr19501
+1 cc to M/s.S.Shinu Advocate sr19277

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