



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON	05.04.2022
PRONOUNCED ON	18.04.2022

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.NO.17705 OF 2013

AND

M.P.NOS.1 AND 2 OF 2013

1. CITU NLC Labour and Staff Union
rep.by its President,
Behind CBS, Block No.24,
Neyveli - 607 801.

2. S.Karthikeyan

... Petitioners

Vs.

1. Government of India,
Ministry of Labour,
Shram Aur Rozgar Matralaya,
New Delhi.
2. The Regional Labour Commissioner (Central),
Office of the Regional Labour Commissioner,
No.14, Haddows Road,
Shastri Bhavan, Chennai - 600 006.
3. Neyveli Lignite Corporation Limited
rep.by its Chairman-cum-Managing Director,
Neyveli Township,
P.O. Neyveli - 607 801.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the third respondent not to deduct 8 days wage cut from our members from June 2013 salary payable in July 2013 or any day thereafter.



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For Petitioners : Mr.V.Stalin
for M/s.Row & Reddy

For Respondent : Mr.K.Subbu
Nos.1 & 2

For Respondent-3 : Mr.N.A.K.Sarma

O R D E R

Pursuant to the strike notice issued by the petitioner / Trade Union on 05.02.2013, proposing to go on strike on 20th and 21st February 2013, after completion of 14 days, the Management had invoked Clause 44 of their Personnel Manual and ordered for deduction of 8 days wages from June 2013, salary payable to the members of the petitioners/Trade Union. This action is questioned in the present Writ Petition.

2. According to the petitioner, the action of the third respondent in declaring their proposed strike as illegal, is without any basis and the adjudication by the Authorities under the Industrial Disputes Act, 1947 [hereinafter referred to as "ID Act"] is also not in conformity with the Act. It is their further case that such action of deducting the wages, ought to have been preceded by a show-cause notice, in the absence of which, it is in violation of Principles of Natural Justice.

3. The learned counsel also raised a ground saying that Clause 44, disentitles the Management to deduct the wages, if a strike notice is given and therefore, when the Management does not dispute the strike notice having been given by the petitioners, Clause 44 cannot be invoked.

4. Per contra, the learned counsel for the Management submitted that, the Writ Petition itself is not maintainable, since it involves disputed questions of fact, concerning different individual workman and hence, cannot be adjudicated by invoking the powers under Article 226 of the Constitution of India. It is also his submission that since the Standing Orders provides for deduction of 8 days wages, no prior notice is required and therefore, there is no violation of Principles of Natural Justice. Insofar as the Clause 44 is concerned, since the Standing Order is in conformity with the Section 24 r/w. Section 22 of the ID Act, the proposed strike itself is deemed to be illegal, since the petitioners are working in a public utility service and the conciliation proceedings with regard to the present dispute was pending before the Authorities.



5. I have given careful consideration to the submissions made by the respective counsels.

6. Clause 44 of the Standing Orders of the NLC Personnel Manual applicable to the employees of the third respondent provides as follows:-

"44. Deduction of wages for stoppage of work by ten or more workmen:

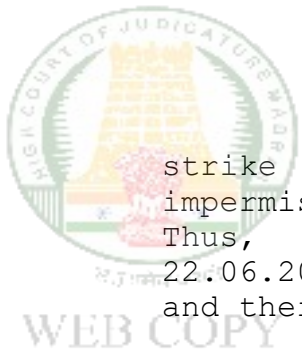
If ten or more workmen, acting in concert and without giving a fortnight's notice to the Management, absent themselves from work or being present at the workspot, refuse to work without reasonable cause, a deduction of 8 days of wages, as defined under the Payment of Wages Act, shall be made from the wages of such workmen."

7. The above Clause provides for deduction of 8 days wages when ten or more workmen go on a strike, "without giving fortnight's notice". Admittedly in the present case, the Management had received the strike notice dated 05.02.2013. If that be so, Clause 44 does not enable the Management for deduction of 8 days wages, since a fortnight's notice of strike was given by the petitioner's union. Thus, the proposal by the Management dated 22.06.2013 and 24.06.2013 by invoking Clause 44 of the Standing Orders, are not in conformity with the Clause.

8. The other objection raised by the third respondent seems to be that the Clause 44 of the Standing Orders is in conformity with the provisions of the ID Act and since the proposed strike is against Sections 24 r/w. 22 of the ID Act, the strike is illegal and hence Clause 44 can be invoked.

9. Clause 44 does not speak about a legal or illegal strike. What is provided under Clause 44 is that, the Management would be within its powers to deduct 8 days wages, when ten or more workmen go on a strike, without giving a fortnight's notice in advance. In other words, if a notice of strike is given by ten or more persons, before a fortnight, proposing to go on a strike, Clause 44 will not be applicable at all.

10. Incidentally, the strike notice was issued in conformity with the provision under Section 22 (1) of the ID Act. It is true that the Standing Orders cannot be in derogation to the provision of the ID Act. But Clause 44 does not refer to the nature of strike or whether such a proposed strike is in violation of Section 22 or Section 24 of the ID Act. The issue is as to whether the strike is legal or illegal is a matter that requires adjudication and therefore claiming that the proposed



strike is an illegal strike and thereby invoking Clause 44, is impermissible in view of the non applicability of the Clause. Thus, the proposed action of the third respondent dated 22.06.2013 and 24.06.2013, are not in conformity with Clause 44 and therefore, the petitioners are entitled to succeed.

11. In the light of the above findings, a Writ of Mandamus is hereby issued refraining the third respondent from deducting 8 days wages, pursuant to their proposals dated 22.06.2013 and 24.06.2013. The Writ Petition stands allowed. Consequently, the connected Miscellaneous Petitions are closed. There shall be no orders as to costs.

Sd/-
Assistant Registrar(L.A)

//True Copy//

Sub Assistant Registrar

DP/pns

To

1. The Ministry of Labour,
Government of India,
Shram Aur Rozgar Matralaya,
New Delhi.
2. The Regional Labour Commissioner (Central)
Office of the Regional Labour Commissioner,
No.14, Haddows Road,
Sastri Bhavan, Chennai - 600 006.
3. The Chairman-cum-Managing Director,
Neyveli Lignite Corporation Limited,
Neyveli Township,
P.O. Neyveli - 607 801.

+1cc to M/s.N.Nithianandam, Advocate, S.R.No.26125

+1cc to M/s.K.Subbu Ranga Bharathi, Advocate, S.R.No.26321

W.P.No.17705 of 2013

RR(CO)
RLP(25/04/2022)