



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 25.02.2022	Pronounced on : 03.03.2022
--------------------------	----------------------------

WEB COPY

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 3821 of 2022
and
W.M.P. No. 3952 of 2022

The Management,
Roca Bathroom Products Private Limited,
No. 11, Mahatma Gandhi Road,
Ranipet,
Vellore District,
Tamil Nadu - 632 401,
Represented by its
Senior Manager - HR & Admin

... Petitioner

-vs-

1. Ranipet Labour Union,
Represented by its Secretary,
Shri S. Nagarajan,
11, Mahatma Gandhi Road,
Ranipet - 632 401,
Vellore District.

2. Ranipet Roca Labour Union,
Rep. by its Secretary,
Registration No. 1581/VLR,
No. 13A, Ambedkar Street,
Navalpur,
Vellore District.

... 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 Industrial Tribunal, Chennai in Memo dated 22.01.2022 in S.R. No. 49 of 2022 in I.A. No. 196 of 2021 in I.D. No. 03 of 2013 and Memo dated 24.01.2022 in S.R. No. 63 of 2022 in I.D. Nos. 3 and 29 of 2013 and quash its order dated 01.02.2022 and directing the Industrial Tribunal, Chennai to adjudicate I.A. No. 196 of 2021 in I.D. No. 3 of 2013 at the first instance.



WEB COPY

For Petitioner : Mr. Anand Gopalan
for M/s. T.S.Gopalan & Co.

For Respondents: Mr. V.Prakash, Senior Counsel
for Ms. Mythreyi (for R1)

Mr. Balan Haridas (for R2)

O R D E R

Heard Mr. Anand Gopalan, Learned Counsel for the Petitioner, Mr. V.Prakash, Learned Senior Counsel who takes notice for the First Respondent and Mr. Balan Haridas, Learned Counsel who takes for the Second Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The industrial disputes in I.D. Nos. 3 and 29 of 2013 between the Petitioner and the First Respondent, which is a Trade Union of its employees, is pending before the Industrial Tribunal at Chennai (hereinafter referred to as the 'Industrial Tribunal' for short). It is accepted that the recording of evidence of the witnesses has also been completed. In the interregnum, the Petitioner claims to have entered into a settlement under Section 18(1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short) with the Second Respondent, which is another Trade Union of its employees in respect of the same matters in the aforesaid industrial disputes. The Petitioner had wanted the said settlement to be recorded by the Industrial Tribunal and close the pending cases which was opposed by the First Respondent. The Division Bench of this Court by order dated 19.12.2019 in W.A. No. 3881 of 2019 had held as follows:-

"50. We, therefore, partly allow this appeal setting aside the observations made by the Industrial Tribunal in the order dated 6.3.2019 to the effect that the settlement dated 21.1.2019 cannot be looked into as it has not been signed by the office bearers of the majority union. We also do not approve of the reasoning of the learned Single Judge that an adjudicatory forum is bound by the terms set out only by a majority of the workmen. This, in our opinion, cannot be done without testing the fairness of the terms of the settlement, which is the primary duty of the Tribunal. The Tribunal can however in its discretion decline to decide the issue as a preliminary issue and can adjudicate all issues finally. The Tribunal may proceed to dispose of the



matter finally in the light of the observations made herein above, preferably within one month from today."

3. It is the case of the Petitioner that subsequently majority of its employees had joined the Trade Union of the Second Respondent and consequently, the settlement arrived would conclude the disputes and in that backdrop, an application in I.A. No. 196 of 2021 was filed before the Industrial Tribunal requiring that the validity of the settlement dated 21.01.2019 entered between the Petitioner and the Second Respondent to be decided as preliminary issue and depending upon its outcome, pass final orders in the main cases. The Industrial Tribunal by order dated 01.02.2022 took a view that since recording of evidence has been completed, all questions including the validity of the settlement entered between the Petitioner and the Second Respondent could be decided together at the time of final disposal of the industrial disputes. Aggrieved thereby, the Petitioner has filed this Writ Petition challenging the said order and has sought for a direction that the application in I.A. No. 196 of 2021 may be taken up at the first instance before passing final orders in the main cases in I.D. Nos. 3 and 29 of 2013.

4. Learned Counsel for the Petitioner, referring to certain legal decisions, vociferously contended that it is imperative that the Industrial Tribunal would have to first decide the validity of the settlement entered between the Petitioner and the Second Respondent and the same ought not to have been postponed to be considered at the time of final decision in I.D. Nos. 3 and 29 of 2013.

5. Though it is true that there have been occasions where preliminary issues have been required to be decided before passing final orders in industrial disputes, it would be necessary at this juncture to quote from the ruling of the Hon'ble Supreme Court of India in D.P.Maheshwari -vs- Delhi Administration [(1983) 4 SCC 293], where it has been observed as follows:-

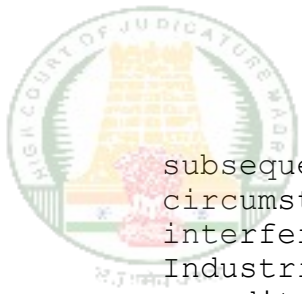
"1. It was just the other day (See S.K.Verma -vs- Mahesh Chandra [(1983) 4 SCC 214]) that we were bemoaning the unbecoming devices adopted by certain employers to avoid decision of industrial disputes on merits. We noticed how they would raise various preliminary objections, invite decision on those objections in the first instance, carry the matter to the High Court under Article 226 of the Constitution and to this Court under Article 136 of the Constitution and delay a decision of the real dispute for years, sometimes for over a decade. Industrial peace, one presumes, hangs in the balance in the meanwhile. We



WEB COPY

have now before us a case where a dispute originating in 1969 and referred for adjudication by the Government to the Labour Court in 1970 is still at the stage of decision on a preliminary objection. There was a time when it was thought prudent and wise policy to decide preliminary issues first. But the time appears to have arrived for a reversal of that policy. We think it is better that tribunals, particularly those entrusted with the task of adjudicating labour disputes where delay may lead to misery and jeopardise industrial peace, should decide all issues in dispute at the same time without trying some of them as preliminary issues. Nor should High Courts in the exercise of their jurisdiction under Article 226 of the Constitution stop proceedings before a tribunal so that a preliminary issue may be decided by them. Neither the jurisdiction of the High Court under Article 226 of the Constitution nor the jurisdiction of this Court under Article 136 may be allowed to be exploited by those who can well afford to wait to the detriment of those who can ill afford to wait by dragging the latter from court to court for adjudication of peripheral issues, avoiding decision on issues more vital to them. Article 226 and Article 136 are not meant to be used to break the resistance of workmen in this fashion. Tribunals and courts who are requested to decide preliminary questions must therefore ask themselves whether such threshold part-adjudication is really necessary and whether it will not lead to other woeful consequences. After all tribunals like Industrial Tribunals are constituted to decide expeditiously special kinds of disputes and their jurisdiction to so decide is not to be stifled by all manner of preliminary objections and journeyings up and down. It is also worthwhile remembering that the nature of the jurisdiction under Article 226 is supervisory and not appellate while that under Article 136 is primarily supervisory but the court may exercise all necessary appellate powers to do substantial justice. In the exercise of such jurisdiction neither the High Court nor this Court is required to be too astute to interfere with the exercise of jurisdiction by special tribunals at interlocutory stages and on preliminary issues."

6. In view of the said dictum which has been laid down in the interests of expediency, there does not appear to be any infirmity in the impugned order passed by the Industrial Tribunal which is in consonance with the same. The various cases referred by Learned Counsel for the Petitioner had been rendered prior to that authoritative pronouncement and the cases cited



subsequent to it do not refer to the same. In such circumstances, there does not appear to be any justification to interfere with the impugned order dated 01.02.2022 passed by the Industrial Tribunal. The parties shall co-operate for the expeditious disposal of I.D. Nos. 3 and 29 of 2013 including all pending applications so that finality could be attained in the industrial disputes in the interests of justice.

In fine, the Writ Petition, which does not deserve to be entertained, is dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

vjt

To

The Presiding Officer,
Industrial Tribunal,
Chennai.

+1cc to M/s.T.S.Gopalan & Co., Advocate Sr.13953

W.P. No. 3821 of 2022

cp[col]
srg 04/03/2022