



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2022

CORAM

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

W.P.No.8806 of 2017

and

W.M.P. Nos. 9657 of 2017 and 25362 of 2017

Tamil Nadu General Workers Union,
Kamarajar Port Mooring Workers Branch,
Regn. No. 289/CPT/1975,
K.T.K. Thangamani Illam,
2/1, Kovur Vaidyanathan Street,
Chintadripet,
Chennai - 600 002.

...Petitioner

-vs-

1. The Government of India,
Rep. by its Secretary,
Ministry of Labour and Employment Department,
Rafi Marg,
New Delhi.
2. The Assistant Labour Commissioner (Central),
O/o. the Deputy Chief Labour Commissioner (Central),
No. 4, Haddows Road,
Shastri Bhavan,
Chennai - 600 006.
3. Kamarajar Port Ltd.,
Rep. by its Chairman cum Managing Director,
Ennore - NCTPS Post,
Chennai - 600 120.
4. General Manager (Cargo),
Kamarajar Port Ltd.,
Ennore - NCTPS Post,
Chennai - 600 120.
5. The Management,
ABS Marine Services Private Ltd.,
No. 15, Valliammal Street, 1st Floor,
Veperi,
Chennai - 600 007.

...Respondents



Prayer:-Writ Petitions filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, forbearing the Third to Fifth Respondents from altering the service conditions of the members of the Petitioner Union whose names are given in the Annexure to the Writ Petition in any manner including discontinuance of service or failing to provide employment in any manner without getting permission under Section 33 of the Industrial Disputes Act, 1947, in the industrial disputes dated 12.12.2016 raised by the Petitioner Union regarding regularization of the services of the 19 employees concerned in the dispute, which is pending conciliation before the Second Respondent as dispute no. M.2(11)/2016-B4 and further direct the Second Respondent to conciliate and effect settlement and if no settlement is forthcoming to submit failure report under Section 12(4) of the Industrial Disputes Act and in turn direct the First Respondent to refer the dispute for adjudication before the competent Industrial Adjudicator.

For Petitioner : Mr. Balan Haridas

For Respondents: Mr. Krishna Ravindran (for R3 & R4)

No appearance (for R1, R2 & R5)

O R D E R

Heard Mr.Balan Haridas, Learned Counsel for the Petitioner and Mr.Krishna Ravindran, Learned Counsel for the Third and Fourth Respondents and peruse the materials placed on record, apart from the pleadings of the parties.

2.The Writ Petition has been filed to forbear the Third to Fifth Respondents from altering the service conditions of the members of the Petitioner Union whose names are given in the Annexure to the Writ Petition in any manner including discontinuance of service or failing to provide employment in any manner without getting permission under Section 33 of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the ID Act' for short), in the industrial disputes dated 12.12.2016 raised by the Petitioner Union regarding regularization of the services of 19 employees concerned for which conciliation is pending before the Second Respondent as dispute no. M.2(11)/2016-B4 and to consequently direct the Second Respondent to conciliate and effect settlement and if no settlement is forthcoming, to submit failure report under Section 12(4) of the ID Act and in turn direct the First Respondent to refer the dispute for adjudication before the competent Industrial Adjudicator.



3.Learned Counsel for the Petitioner has filed a memo stating that the First Respondent has referred the dispute raised by the Petitioner for adjudication before the Central Government Industrial Tribunal cum Labour Court, Chennai, which has been taken on file as I.D. No. 3 of 2018 and is now pending and that the Petitioner is entitled to protection under Section 33 of the ID Act till the conclusion of those proceedings. In view of the same, nothing remains to be decided in the Writ Petition and the parties shall be governed by the outcome of the said industrial dispute and shall be entitled to the benefits of the relevant statutory protection applicable till then.

4.In the result, the Writ Petition is disposed with the aforesaid observations.Consequently, the connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

vjt

To

1. The Secretary to Government of India,
Ministry of Labour and Employment Department,
Rafi Marg,
New Delhi.
2. The Assistant Labour Commissioner (Central),
O/o. the Deputy Chief Labour Commissioner (Central),
No. 4, Haddows Road,
Shastri Bhavan,
Chennai - 600 006.

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SV(CO)
RGA(27/06/2022)