



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2022

CORAM

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

W.P. No. 22167 of 2017
and
W.M.P. No. 23200 of 2017

Mohan Breweries & Distelleries Limited
Puducherry
Rep.by its Director.

... Petitioner

-vs-

1.The Presiding Officer,
Industrial Tribunal Cum Labour Court,
Puducherry.

2.R.Venkatesan

... Respondents

Prayers:- Petition filed under Article 226 of the Constitution of India praying to issue Writs of Certiorari, calling for records of the First Respondent in I.A. No. 42 of 2017 in C.P. No. 3 of 2016 dated 08.06.2017 and quash the same.

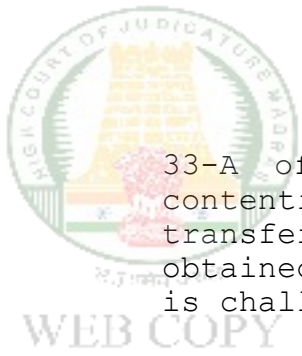
For Petitioner : Mr. Anand Gopalan
for M/s.T. S. Gopalan and Co.

For Respondents : R1 - Tribunal
: Mr.Stalin Abhimanyu (for R2)

O R D E R

Heard Mr. Anand Gopalan, Learned Counsel for the Petitioner and Mr. Stalin Abhimanyu, Learned Counsel for the Second Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The First Respondent had filed the Computation Petition in C.P. No. 3 of 2016 seeking monetary benefits from the Petitioner under under Section 33-C(2) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the I.D. Act' for short) before the First Respondent. While it was pending, the Petitioner by order dated 02.02.2017 transferred the Second Respondent from Puducherry to Vadakankulam in Tirunelveli District in respect of which the Second Respondent had made an application in I.A. No. 42 of 2017 under Section



33-A of the I.D. Act. The First Respondent accepted the contention by order dated 08.06.2017 and restrained that transfer on the ground that no prior permission had been obtained in terms of Section 33(1)(a) of the I.D. Act, which is challenged in this Writ Petition.

3. Learned Counsel for the Petitioner contends that the provisions of Section 33(1)(b) of the I.D. Act would be applicable only when an industrial dispute is pending before the Labour Court and does not get attracted for computation petition under Section 33-C(2) of the I.D. Act and consequently, there was no scope for the First Respondent to interfere with the transfer of the Second Respondent invoking Section 33-A of the I.D. Act in this case.

4. A plain reading of the aforesaid statutory provisions justifies the aforesaid submission made and it is not possible to sustain the impugned order which is accordingly set aside and the application in I.A. No. 42 of 2017 on the file of the First Respondent shall stand dismissed.

In the result, the Writ Petition is ordered on the aforesaid terms. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

kv

To

The Presiding Officer,
Industrial Tribunal Cum Labour Court,
Puducherry.

+1cc to M/s.T.S.Gopalan & Co, Advocate SR. No.12989

W.P. No. 22167 of 2017

JPL (CO)
PR (11/03/2022)