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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2022

CORAM

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

W.P. No. 26519 of 2017
and
W.M.P. No. 28238 of 2017

Thirumalai Charity Trust,
Vanapadi Road,
Ranipet - 632 404,
Vellore District
Rep. by its Trustee

... Petitioner

-vs-

1. The Presiding Officer,
Principal Labour Court,
Vellore,
Vellore District.

2. Devi G.

... Respondents

Prayer:- Writ Petitions filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the records of the First Respondent connected with I.A. No. 6 of 2016 in I.D. No. 174 of 2015 and quash the order dated 25.11.2016.

For Petitioner : Mr. C.Manohar Gupta

For Respondents : R1 - Labour Court

Mr. P.A.Thiyagu (for R2)

O R D E R

Heard Mr. C.Manohar Gupta, Learned Counsel for the Petitioner and Mr. P.A.Thiyagu, Learned Counsel for the Second Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Second Respondent, who claims to have worked in the establishment of the Petitioner, has raised an industrial dispute in I.D. No. 174 of 2015 before the Principal Labour



Court, Vellore (hereinafter referred to as 'the Labour Court' for short) invoking Section 2-A(2) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short) claiming that he had been wrongly terminated from service by order dated 24.04.2015. The Petitioner filed an application in I.A. No. 6 of 2016 in I.D. No. 174 of 2015 before the Labour Court to determine as to whether the Second Respondent was 'workman' as defined in Section 2(s) of the Act as preliminary issue, but it was dismissed by order dated 25.11.2016 holding that the Petitioner failed to make out a prima facie case to entertain the same, which is impugned in this Writ Petition.

3. 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 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



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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."

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 Labour Court which is in consonance with the same.

4. Though Learned Counsel for the Petitioner relies on the decision of this Court in Management of Tamil Nadu Electricity Board -vs- Presiding Officer, I Additional Labour Court, Chennai [(2006) 4 LLN 272] where the Labour Court was directed to decide as to whether the concerned person was 'workman' in terms of the Act as preliminary issue, after referring to various cases, it was noticed that the same related to decisions rendered prior to that authoritative pronouncement and the cases cited subsequent to it had not referred the same.

5. In such circumstances, there does not appear to be justification to interfere with the impugned order dated 25.11.2016 in I.A. No. 6 of 2016 in I.D. No. 174 of 2015 passed by the Labour Court. The parties shall extend their co-operation for expeditious disposal of I.D. No. 174 of 2015 including the question as to whether the Second Respondent is 'workman' within the meaning of the Act, uninhibited and uninfluenced by the impugned order, so that finality could be attained in that industrial dispute.



In the result, the Writ Petition is dismissed with the aforesaid observations. Consequently, the connected Miscellaneous Petition is closed. No costs.

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Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

skr

To

1. The Presiding Officer,
Principal Labour Court,
Vellore,
Vellore District.

+1cc to Mr.P.G.THIYAGU, Advocate, S.R.No.13177

+1cc to M/s.Gupta and Ravi, Advocate, S.R.No.13224

W.P. No. 26519 of 2017

PL(CO)
CT 13/04/2022