



W.P.No.1226 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.03.2023

CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU

W.P.No.1226 of 2013

Axies India Worker's Union,
(Regn.No.CPT/952),
Rep. By its Secretary,
3, Kambar Street, Gandhi Nagar,
Sriperumbudur, Kancheepuram District.

.... Petitioner

VS

1.The Presiding Officer,
Industrial Tribunal, Tamil Nadu,
High Court Buildings,
Chennai – 600 104.
2. The Management of Axies India Limited.,
Singaperumal Koil Road,
Sriperumbudur – 602 105
Kancheepuram District

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India to
issue a Writ of Certiorari to call for the records and papers from the files of
the 1st respondent Tribunal in I.D.No.17 of 2008 and to quash the award



W.P.No.1226 of 2013

made therein dated 26.06.2012 insofar as the 1st respondent Tribunal has negatived the claims of the petitioner Union.

For Petitioner : Mr.K.M.Ramesh
Senior Counsel
for Mr.K.Bharathi and Mr.K.Rama

For respondents : Mr.Anand Gopalan
For M/s. T.S. Gopalan for R2
R1- Court

ORDER

This writ petition has been filed to call for the records from the files of the 1st respondent Tribunal in I.D.No.17 of 2008 and to quash the award made therein dated 26.06.2012 insofar as the 1st respondent Tribunal has negatived the claims of the petitioner Union.

2. The case of the petitioner is that the petitioner Union represents the workmen employed in the 2nd respondent Management in its factories at Sriperumbudur and Gummidipoondi. He further submitted that the petitioner's Union represent membership of about 100 workmen in Sriperumbudur and 23 workmen in Gummidipoondi out of total workmen of 166. Apart from permanent workmen, the 2nd respondent is also employing casual employees and company apprentices.



W.P.No.1226 of 2013

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(ii). The petitioner further averred that initially there existed a cordial relationship between the petitioner Union and the 2nd respondent. Thereafter the terms and conditions were not good between the Petitioner Union and 2nd respondent. Moreover, the petitioner Union alone was representing all the permanent workmen employed in 2nd respondent company upto the year 2003 and the by-laws of the petitioner union is only to enroll the permanent workmen on its rolls. The 2nd respondent management appointed company Apprentices in the vacancies caused due to dismissal, transfer and voluntary retirement. The petitioner was the only recognized union at that point of time.

(iii). In the year, 2003 the respondent Management encouraged a minority group of workmen to join I.N.T.U.C union and immediately granted recognition to the said union. The 2nd respondent entered into an settlement with the said union u/s 18(1) of the ID act, 1947 dt 30.09.2003. The said settlement were made under threat and torture by the second respondent management.

(iv). After entering into the said settlement with I.N.T.U.C Union, the 2nd respondent insisted the members of the unions to give



W.P.No.1226 of 2013

WEB COPY

production as per the settlement, but the petitioner has not accepted the same. In the meantime, the 2nd respondent has illegally started deducting pro-rata wages of the members of the petitioner Union for not giving the production as per the settlement from June 2004.

3. Challenging the action of the 2nd respondent management, the petitioner raised an industrial dispute. On failure of conciliation proceedings, the Government of Tamil Nadu referred the said industrial dispute to the 1st respondent tribunal in G.O.(D) No.105, Labour and employment (A2) Department dated 24.3.2008 for adjudication. The said dispute was taken up as I.D.No 17 of 2008 on the file of the 1st respondent Tribunal.

4. Learned counsel for the petitioner would submit that the petitioner raised two disputes with regard to the withdrawal of recognition to the petitioner Union and go-slow tactics adopted by 56 workmen, consequent to the pro-rata payment of wages to the workmen. He further submitted that out of the 56 workmen, 15 workmen left the service of the



W.P.No.1226 of 2013

respondent by availing voluntary Retirement scheme and got their Full and Final settlement of their dues; 11 workmen have entered into a settlement with respondent management and agreed not to press the claims made by the petitioner union in the dispute, 16 workmen have retired from service on attaining the age of superannuation and they have also received their full and final settlement. He further states that 4 workmen died and their legal dues have been settled to the legal heirs. In such circumstances, the dispute would survive only in respect of 7 employees who have been discharged/dismissed from service at various points of time and the 3 workmen who are currently in service.

5. Learned counsel for the 2nd respondent would submit that there is no law or rule for recognition of a trade union and it is purely discretionary and therefore, no union can claim recognition as a matter of right and in view of the said legal position, no industrial dispute can arise on the said subject of recognition of trade union. He further averred that the company faces huge loss due to slow production of the workmen of petitioner's Union. In spite of the request made by the 2nd respondent to



W.P.No.1226 of 2013

WEB COPY

increase the productivity, the petitioner's Union directed its members to go deliberately for slow production. In order to compensate the loss, the 2nd respondent company offered voluntary retirement scheme and also altered the man power by getting approval from its concerned authority.

6. The learned counsel for the respondent further submits that in January, 2003 some senior workmen were unhappy with the attitude of the Petitioner's union and they formed a new union called INTUC. INTUC Union came forward to increase the production and supports the company to tide over the financial loss. Thereafter, INTUC Union submitted the charter of demands on 24.03.2005 and the petitioner union also participated, but they are against to this charter. Hence, the matter was referred to conciliation proceedings, which was failed. The 2nd respondent advised the petitioner union to increase production on failure and in order to resolve the issue, they came up with new scheme called “No work No pay principle” to deduct pro-rata wages to the workmen for not giving the production and given incentive for the workmen who performed better.

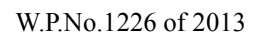


W.P.No.1226 of 2013

WEB COPY

7. This Court, considered the rival submissions of both the learned counsel and perused the materials available on record.

8. On perusal of the impugned order, it is seen that the workers of the petitioner-union have deliberately adopted the go-slow practice in spite of several notices and opportunity granted by the Management to increase the production and also to improve the economic conditions of the factory. If the respondent management has paid full wages to those who have adopted go-slow practice deliberately, it could set a bad example and precedence to others. The management has clearly established their case by submitting relevant records and appropriate evidences, regarding the deliberate go-slow practice adopted by the petitioner union. At the same time, it is found that the other workers have agreed to give more production and there is no unfair labour practice or victimization on the part of the respondent-management. Moreover, it is essential to increase the production and to wipe out the financial loss incurred by the respondent/management, otherwise, it would result in the closure of the respondent factory itself, which will affect the interest of



9. The Tribunal after going into the merits of the matter held that the petitioner-union workers are not entitled to get any relief as claimed in the claim statement and also rejected the claim of the petitioner-union to restore the recognition of the petitioner-union and to repay the amounts deducted from the wages of the petitioner-union workers as not justified.

“ 6. It is the settled proportion of law that the scope of interference to an award of the Industrial Tribunal or Labour court will not be normally interfered by the High Court exercising its power under Article 226 of the constitution India, but for certain exceptions like correcting errors of jurisdiction or extending the



W.P.No.1226 of 2013

*jurisdiction or violation of Principles of Natural Justice
or Award based on “no evidence”, etc.”*

11. In the light of above discussion, I do not find any infirmity or illegality in the order passed by the 1st respondent/Industrial Tribunal and thus, the order passed by the Tribunal does not warrant interference.

12. Accordingly, the Writ Petition fails and the same is dismissed. No costs.

29.03.2023

Index: Yes/No

Speaking/Non-speaking order

msv

To

The Presiding Officer,
Industrial Tribunal, Tamil Nadu,
High Court Buildings, Chennai – 600 104.

J.NISHA BANU,J.



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W.P.No.1226 of 2013

msv

W.P.No.1226 of 2013

29.03.2023