



W.P.No.1204 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 19.01.2023

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.1204 of 2023

Tamil Nadu Atomic Power Employees Union
Reg.No.118/CPT/70
represented by its General Secretary
DAE Township, Kalpakkam,
Chengalpattu District - 603 102.

.. Petitioner

Vs.

1.The Government of India
represented by its Secretary,
Ministry of Labour and Employment,
Shram Sakthi Bhavan,
Rafi Marg, New Delhi - 110 001.

2.The Station Director,
Madras Atomic Power Station,
Nuclear Power Corporation of India,
DAE Township Kalpakkam,
Chengalpattu District - 603 102.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Mandamus directing the first respondent to refer the dispute raised by the petitioner Union relating to the demand for 30 days special casual leave to the workmen/employees of the second respondent, who are employed in radiation prone zone and work, for adjudication to the Central Government Industrial Tribunal



W.P.No.1204 of 2023

cum Labour Court, Chennai - 600 006, as per the failure report submitted by the Assistant Labour Commissioner (Central) - Conciliation, Chennai - 600 006, in proceeding No.M.8(3)/2016-B3 dated 26.04.2017, within a specified time frame.

For Petitioner : Mr.V.Ajoy Khose

For Respondents : Mr.K.Subburaaga Bharathi
Central Government Standing Counsel [R1]
Mr.V.Vijayashankar
Standing Counsel [R2]

ORDER

This writ petition has been filed for issuance of a writ of mandamus directing the first respondent to refer the dispute that has been raised by the petitioner Union relating to the demand for 30 days special casual leave to the workmen/employees of the second respondent, who are said to be employed in the radiation prone zone and for adjudication of this dispute by the Central Industrial Tribunal cum Labour Court, Chennai, pursuant to the failure report submitted by the Assistant Labour Commissioner (Central) - Conciliation, Chennai, through proceedings dated 26.04.2017.



W.P.No.1204 of 2023

2. Heard Mr.V.Ajoy Khose, learned counsel for the petitioner, Mr.K.Subburaaga Bharathi, learned Central Government Standing Counsel, appearing for the first respondent and Mr.V.Vijayashankar, learned Standing Counsel, appearing for the second respondent.

3. The main grievance that has been ventilated by the petitioner union is that the workers/employees, who are working before the second respondent, are exposed to radiation by virtue of the nature of the work undertaken. Hence, a representation was made for granting 30 days special casual leave and the dispute that was raised by the petitioner union was taken on file by the Assistant Labour Commissioner (Central) - Conciliation, Chennai. The second respondent also gave their response and ultimately, a failure report was submitted to the first respondent on 26.04.2017.

4. Pursuant to the above, the petitioner union made representations to the first respondent to refer the dispute for adjudication before the Central Industrial Tribunal cum Labour Court. Since the first respondent did not act upon the representations, the present writ petition has been filed before this Court seeking for appropriate directions.



W.P.No.1204 of 2023

5. It is, by now, too well settled that making a reference u/s.10 is a rule and refusal to refer is only an exception. The failure report has been given to the first respondent as early as on 26.04.2017. Thereafter, repeated representations have been made by the petitioner union to refer the dispute for adjudication. The first respondent has not taken any decision on the representations and as a result, the petitioner union has been constrained to move this Court seeking for appropriate directions.

6. Taking into consideration the facts and circumstances of the case and also the fact that the representations have been pending before the first respondent for the last four years, there shall be a direction to the first respondent to immediately act upon the representations made by the petitioner union and take a decision on referring the dispute for adjudication before the Central Industrial Tribunal cum Labour Court within a period of six weeks from the date of receipt of a copy of this order. The petitioner union is directed to make a fresh representation to the first respondent along with all the relevant documents and also a copy of this order.



W.P.No.1204 of 2023

This Writ Petition is disposed of with the above direction. No

costs.

19.01.2023

Neutral Citation: Yes/No

Index: yes/no

Speaking Order/Non-Speaking Order
gm

To
The Secretary,
Ministry of Labour and Employment,
Shram Sakthi Bhavan,
Rafi Marg, New Delhi - 110 001.



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W.P.No.1204 of 2023

N.ANAND VENKATESH, J

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W.P.No.1204 of 2023

19.01.2023