



WP.No.21247/2010

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

WP.No.21247/2010

Sri Balaji Cotton Mills Thozhilalar Sangam
[Registration No.876/SLM]
Rakkipatti Post, Vembadithalam
Salem District 637504.

.. Petitioner

Vs.

1.State of Tamil Nadu rep.by its
Secretary to Government
Department of Labour and Employment
Secretariat, Fort St George
Chennai 600 009.

2.The Management of Sri Balaji Cotton Mills
rep.by its Managing Director, Rakkipatti Post
Vembadithalam, Salem District.

.. Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records of the 1st respondent in G.O.[D] No.397 dated 03.10.2008 and quash the same and consequently direct the 1st respondent to refer the charter of demand and the issue of strike to the Industrial Tribunal.



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For Petitioner : Mr.V.Stalin for M/s.Row & Reddy
For R1 : Mr.P.Ananda Kumar, GA
For R2 : No appearance

ORDER

- (1) This writ petition is filed by the petitioner, a Labour Union, challenging the order of the 1st respondent vide G.O.[D] No.397 dated 03.10.2008 refusing to refer the charter of demand to the Industrial Tribunal.
- (2) Brief facts that are necessary for the disposal of this writ petition are as follows:-
- (3) The petitioner is a Union registered under the Trade Unions Act, 1926. The petitioner states that the petitioner Union was originally named as Sri Balaji Cotton Mills Panjaalai Thozhilalar Sangam and the petitioner Union was affiliated with INTUC.
- (4) The 2nd respondent is a Textile Mill with more than 100 workers. It is stated that the petitioner Union in which more than 31 workers of the 2nd respondent/Mill are members, placed a charter of demand for Variable Dearness Allowance, Bonus and other interim payments. Since the 2nd respondent/Mill did not consider the



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demands favourably, it appears that the petitioner Union published a strike notice indicating that they will go on strike from 25.04.2006. It is the specific case of the petitioner Union that as a result of strike, around 15 workers were dismissed from service and the 2nd respondent/Mill did not even agree before the Conciliation Officer to consider the demand of petitioner Union. When the petitioner moved the 1st respondent herein, the impugned order was passed by the 1st respondent/Government holding that reference to Industrial Tribunal is not necessary on the following grounds:-

- A) The petitioner Union can approach the Government to seek redressal as regards salary and Dearness Allowance ;
- B) The petitioner can apply before the authorities under the Gratuity Act for getting relief as regards claim under Gratuity Act.
- C) The petitioner Union has not explained how the employees were put to any hardship on account of inclusion of certain clauses in the Agreement.



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D) The employees have declared strike with effect from 25.04.2006 which is liable to be declared as illegal.

- (5) Aggrieved by the order of the 1st respondent/Government, the present writ petition is filed by the petitioner Union.
- (6) This Court heard the submissions of the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the 1st respondent and perused the materials placed.
- (7) The facts are not in dispute. After the Failure Report submitted by the Labour Officer, the petitioner Union has submitted a representation before the 1st respondent / Government. The petitioner Union is aggrieved by the reasons stated by the Government in the impugned order by refusing to refer to the Industrial Tribunal.
- (8) The law is well settled that the Government is not supposed to refuse a reference on irrelevant grounds or for reasons which are irrational or extraneous. It is not open to the Government to examine the merits of the dispute by itself. If the refusal is influenced by any malice, the Court is empowered to interfere and



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issue a writ of mandamus. In the present case, the reading of the impugned order passed by the 1st respondent would clearly show that reasons are irrational and hence, cannot be sustained. Since the Government refused to refer the dispute on extraneous reasons, this Court has no hesitation to quash the impugned order.

- (9) Accordingly, the writ petition stands **allowed** and the impugned order in G.O[D] No.397 dated 03.10.2008 passed by the 1st respondent is quashed and the matter is remitted to the 1st respondent/Government for fresh disposal in accordance with law. The 1st respondent/Government shall pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order. No costs.

02.03.2023

AP

Internet : Yes

Neutral Citation: Yes/ No



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To

- 1.The Secretary to Government
State of Tamil Nadu
Department of Labour and Employment
Secretariat, Fort St George
Chennai 600 009.
- 2.The Managing Director,
Management of Sri Balaji Cotton Mills
Rakkipatti Post
Vembadithalam, Salem District.



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