



WEB COPY



W.P.No.29274 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.29274 of 2010 and
MP.No.1 of 2010

Bayer Material Science P Ltd
Semmankuppam
Poondiaankuppam Post
Cuddalore SIPCOT
Cuddalore
Rep. by its Business Unit Head
V.Kumaraguru

... Petitioner

Vs.

1.The Labour Officer,
22, Pudupalayam
Main Road, Pudupalayam,
Cuddalore 607 001
2.M.Mathesan

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue Writ of Mandamus forbearing the first respondent from reviewing or recalling the order dated 30.04.2010 and confirmed by letter dated 06.08.2010 made in Na.Ka.No.117 of 2010 and from holding any proceedings on the basis of notice dated 01.12.2010 in



W.P.No.29274 of 2010

Na.Ka.No.692 of 2010 on the file of the first respondent.

For Petitioner : Mr.D.Abdullah

For Respondents

For R2 : Mr.N.Thiagarajan

R1 : Court

ORDER

This writ petition has been filed challenging the notice issued by the first respondent thereby called upon the petitioner to appear for conciliation to be held on 06.12.2010.

2. Heard, the learned counsel appearing on either side.

3. The petitioner engaged 37 employees in the factory of the petitioner. Due to cost of production and other routine overheads were in huge excess to the value of orders received, the petitioner after exploring various means to control cost, decided to prune excess manpower which was inevitable. Therefore, the petitioner decided to dispense with the services of 8 employees, 5 in the category of workmen including the



W.P.No.29274 of 2010

WEB COPY

second respondent herein and 3 in the cadre of officers. Accordingly, the second respondent was served with notice under Form R as required under the Tamilnadu Industrial Disputes Rules and they were served with retrenchment order dated 27.12.2001. At the time of retrenchment, the second respondent was also simultaneously paid notice pay, retrenchment compensation and terminal benefits due to him. It was duly received by him. The Union by its letter dated 27.12.2001 raised a dispute questioning the retrenchment and demanded a negotiated settlement.

4. The second respondent along with other work men settled the dispute with the petitioner Management by a settlement dated 11.01.2002 under Section 18(1) of the Industrial Disputes Act, wherein the cessation of employment was accepted by the second respondent and others by receiving an ex-gratia over and above the statutory dues. Accordingly, the second respondent was paid a sum of Rs.2,50,000/- in cash at the time of settlement. The second respondent also had executed receipt acknowledging the receipt of money from the



W.P.No.29274 of 2010

petitioner. After lapse of 2 years, the second respondent filed petition before the first respondent under Section 2A of the Industrial Disputes Act alleging that the petitioner had retrenched him by providing notice and retrenchment compensation and that when the second respondent objected the same, the petitioner offered to pay higher ex-gratia and to take back the petitioner in service. Therefore, the second respondent had signed in the blank papers as requested by the petitioner due to his financial crisis.

5. On receipt of the said petition, the first respondent issued notice to the petitioner in Na.Ka.104 of 2003. On receipt of the same the petitioner submitted reply for the Industrial Dispute raised by the second respondent. On receipt of the same, the first respondent found that there was no dispute in existence and closed the issue. Once again, the second respondent raised an Industrial Dispute in Na.Ka.No.715 of 2009 through verbatim on the very same set of allegations as made in the Industrial Dispute in Na.Ka.No.104 of 2003. Again, the petitioner submitted detailed reply and on verification, the first respondent by the



W.P.No.29274 of 2010

communication dated 04.11.2009 declined to take up the claim of the second respondent following the report dated 29.03.2003. In fact, the other employees like the second respondent had raised Industrial Dispute in ID.No.143 of 2004 and the same is pending on the file of the Labour Court, Cuddalore.

6. Therefore, once again the second respondent raised another dispute in Na.Ka.No.715 of 2009 before the first respondent. Once again, the petitioner submitted detailed reply and the first respondent by its decision dated 30.04.2010 closed the dispute for the fourth time. Once again, the second respondent filed another application dated 29.11.2010 before the first respondent to review the decision made by the first respondent dated 30.04.2010 and confirmed by its letter dated 06.08.2010 on the ground that the first respondent failed to see the earlier settlement between the parties nor to find out any dispute between the parties is subsisting. Further, the second respondent contented that the first respondent had considered the 18(1) settlement, itself not binding on the workman as the settlement made between the employer and its erstwhile workmen is non est in law.



W.P.No.29274 of 2010

WEB COPY

7. In fact, co-workman also raised Industrial Dispute and the same was referred before the Labour Court as ID.No.143 of 2004. In fact, the said ID.No.143 of 2004 was also dismissed by the Labour Court, Cuddalore. Subsequently, the said award was also challenged by the co-worker of the second respondent i.e. K.Ramamurthi before this Court and the same was also dismissed by this Court in WP.No.44224 of 2016. Therefore, the Industrial Dispute has no legs to stand further. As such, the notice dated 01.12.2010 in Na.Ka.No.692 of 2010 on the file of the first respondent is liable to be quashed. Accordingly, the above notice dated 01.12.2020 is quashed.

8. In the result, this writ petition stands allowed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

04.09.2023

Internet: Yes
Index: Yes/No
Speaking/Non-speaking order
lok



WEB COPY



W.P.No.29274 of 2010



WEB COPY



W.P.No.29274 of 2010

G.K.ILANTHIRAIYAN, J.

lok

To

1. The Labour Officer,
22, Pudupalayam
Main Road, Pudupalayam,
Cuddalore 607 001
2. The Government Advocate,
High Court, Madras.

W.P.No.29274 of 2010

04.09.2023