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W.A. No. 1981 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.04.2023

CORAM

THE HON'BLE MR. JUSTICE S. VAIDYANATHAN

AND

THE HON'BLE MRS. JUSTICE R. KALAIMATHI

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&

C.M.P. No. 13386 of 2019

1. The Director – HR,
Bharat Heavy Electricals Limited,
Siri Fort, New Delhi – 110 049.
2. The Executive Director,
Bharat Heavy Electricals Limited,
Ranipet, Vellore – 632 406. ..Appellants

Vs.

1. The Secretary,
Union of India,
Ministry of Heavy Industries &
Public Enterprises,
Department of Heavy Industries,
Udyog Bhavan, New Delhi – 100 011.
2. Supervisors Union BHEL/BAP/Ranipet,



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BHEL Post, Ranipet,
Vellore – 632 406,
rep. by its General Secretary.

..Respondents

Prayer: Writ Appeal as against the order dated 19.02.2019 passed in
W.P. No. 9480 of 2018.

For Appellants :: Mr.A.V. Arun

For Respondents :: Mr.B.Sudhirkumar for R1

No appearance for R2

J U D G M E N T

S. VAIDYANATHAN,J.

AND

R. KALAIMATHI,J.

The present writ appeal has been filed challenging the order dated 19.02.2019 passed in W.P. No. 9480 of 2018.

2. The 2nd respondent Union, which is a registered Trade Union espousing the cause and interest of its members, who are Supervisors, employed in the appellant establishment, had approached this Court by way of writ petition seeking issuance of a Writ of Mandamus directing the



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appellant Management to call the 2nd respondent Union for negotiation for the present wage revision applicable to S1 to S3 grade Supervisors earlier to engaging in negotiations with the Trade Union representing the workmen. The grievance of the 2nd respondent Union, which represents the interest of categories of S1 to S3 Supervisors of the appellant Management was that while the service conditions of Management staff i.e, the Executives and Supervisors from S4 to S8 Grades were governed by various Board Directives and the terms and conditions of employment of 'workmen' category, who were referred to as 'artisans' were governed by various Bi-Partite settlements entered into between the Management and the respective Trade Unions from time to time, the service conditions of the members of the 2nd respondent Union alone were not covered by Bi-Partite settlement, since they were not recognised as 'workmen' resulting in the 2nd respondent Union not being called for any negotiations by the appellant Management. In spite of representations given to the Management and the Government to recognise the category of Supervisors i.e, S1 to S3 as 'workmen', the 2nd respondent Union and the category of Supervisors in S1 to S3 Grade had been sidelined and they were not at all invited for negotiations. The last



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wage negotiations and the revision of wages had come to an end on 31.12.2016 and wage revision needed to be revised from 2017. However, the apellant Management, despite holding talks towards arriving at Bi-Partitite Settlement with the 'worker' category, was not inclined to invite the 2nd respondent Union for such negotiations for settlement of service conditions of Supervisors in S1 to S3 Grades. Hence, the writ petition was filed.

3. The learned Single Judge, after hearing the rival contentions, allowed the writ petition holding that the 2nd respondent Union is entitled to be called for talks/negotiations by the Management in regard to the settlement of any service conditions as applicable to Supervisors belonging to S1 to S3 Grades. Questioning the same, the present writ appeal has been preferred by the Management.

4. Notice has been served on the contesting 2nd respondent and there is no representation on their behalf.



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5. According to the Management, the employees concerned belong to the category of Supervisors in S1 to S3 Grades and they are not workmen. That apart, an agreement had been entered into between the Supervisors and the Management with regard to revision of salary and the learned Single Judge, while rejecting the contention of the Management that the employees concerned were treated as 'Unionised Supervisors' only in respect of particular benefit given to the workers, had observed that an employee cannot be a 'workman' for one purpose and a 'Supervisor' for other purpose. The learned Single Judge had also held that the 2nd respondent Union must be called for negotiations and talks with regard to settlement of any service conditions as applicable to Supervisors belonging to S1 to S3 Grades. Further, in paragraph No.12 of the order passed in the writ petition, the learned Single Judge had also observed that wage settlement had been put in place even for the Supervisors in S1 to S3 Grades and the members of the 2nd respondent Union have also started receiving the pay as per the new pay structure. In view of the said observation, we do not want to go into the issue whether Supervisors are 'workmen' or not. It is for the industrial tribunal to decide in case any dispute is raised. Now, that the parties have



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arrived at a settlement, in the light of paragraph No.12 of the order dated 19.02.2019 in W.P. No. 9480 of 2018, we leave open all the issues to be decided in the appropriate case. We also make it very clear that unless it is a recognised Union, the Management may not call them for negotiation. This will not preclude those Unions to go before the Conciliation Officer and raise a dispute and it is not mandatory that there should be a demand, which may not be accepted by the employer thereby enabling the employee to go before the Conciliation officer in the light of the judgment of Division Bench of this Court in **Ramakrishna Mills (Coimbatore) V. The Government of Tamil Nadu** reported in **1984 (II) LLJ 259 (Mad.)** wherein it was held that *the demand as such need not in all cases be directly made by representation to the Management and it can be made through other sources also*. Any individual can raise a dispute by making a representation to the Conciliation Officer without first informing the Management. In the case on hand, if any dispute is raised, it is open to the Management to raise objections as to whether Supervisors are 'workmen' or not. The writ appeal stands allowed with the above directions. No costs. Connected C.M.P.is closed.



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(S.V.N.J.) (R.K.M.J.)

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To

The Secretary,
Union of India,
Ministry of Heavy Industries &
Public Enterprises,
Department of Heavy Industries,
Udyog Bhavan, New Delhi – 100 011.



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