



W.P.Nos.3109 to 3111 of 2014 etc.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.09.2023

CORAM:

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

W.P.Nos.3109, 3110, 3111, 3113, 3114 & 3639 to 3645 of 2014

W.P.No.3109 of 2014 :-

The Management of Rohini Mills
Private Limited,
Indiampalayam,
Arasur Post,
Sathyamangalam Taluk,
Erode District.

... Petitioner

-Vs-

1. The Presiding Officer,
Labour Court,
Salem.

2. N.Seenivasan

... Respondents

Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for records from the file of the first respondent herein in I.A.No.176 of 2010 in I.D.No.91 of 2010 and quash its order dated 29th October, 2013.

In all W.Ps.

For Petitioner : Mr.J.Kishore

For Respondents

R1 : Court

For R2 : Mr.A.Yogaraj

For Mr.R.Marudhachalamurthy.



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COMMON ORDER

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These writ petitions have been filed challenging the interim orders passed by the first respondent viz., the Labour Court, Salem, dated 29.10.202013, in the petition filed by the petitioner management in the industrial dispute raised by the second respondent in all the writ petitions.

2. The second respondent in all the writ petitions (hereinafter called as “the workmen”) raised industrial disputes under Section 2(A)(2) of the Industrial Dispute Act (hereinafter called as “the I.D. Act”), as against their removal from service. While pending the industrial disputes, the petitioner management filed an interim application and prayed to try the issue relating to the non-maintainability as a preliminary issue.

3. The petitioner management raised ground that the workmen raised industrial dispute against the provision under Section 2(A)(2) of the I.D. Act. As per Section 2(A)(2) of the I.D. Act, the workmen should raise industrial dispute with regard to the dismissal, before the concerned



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Conciliation Officer. If no settlement arrived, then on the failure report, the workmen can raise industrial dispute under Section 2(A)(2) of the I.D. Act before the Labour Court. Further the workmen already raised dispute as against their dismissal before the Labour Officer, Erode, under Section 33(A) of the I.D. Act. On enquiry, no settlement was arrived as such, the failure report was sent by the Labour Officer. However, the government on receipt of the said report, declined to refer the matter before the Labour Court for adjudication. These proceedings were suppressed by the workmen and no application has been filed before the Conciliation Officer before raising the present industrial disputes. However, the Labour Court dismissed the petition filed by the petitioner management and against which, the petitioner management filed the present writ petitions with the above prayer.

4. Heard the learned counsel appearing of either side and perused the material placed before this Court.

5. On perusal of the order revealed that while pending the issue before the Labour Officer, the workmen were removed from



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service. Therefore, the workmen raised industrial dispute under Section 2(A)(2) of the I.D. Act. It is relevant to extract the provision under Section 2(A)(2) of the I.D. Act as follows :-

“2A. Dismissal, etc., of an individual workman to be deemed to be an industrial dispute.--

(1).....

(2)Notwithstanding anything contained in section 10, any such workman as is specified in sub-section (1)may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudicate upon the dispute, as if it were a dispute referred to it by the appropriate Government in accordance with the provisions of this Act and all the provisions of this Act shall apply in relation to such adjudication as they apply in relation to an industrial dispute referred to it by the appropriate Government.”

Accordingly, the workmen can make an application directly to the Labour Court after expiry of forty five days from the date his application before the Conciliation Officer.



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6. Admittedly, the workmen raised industrial dispute under Section 33(A) of the I.D. Act before the Labour Officer. However, it was failed and the Labour Officer sent his failure report. Further, the government declined to refer the matter before the Labour Court. Therefore, the workmen rightly raised industrial dispute under Section 2(A)(2) of the I.D. Act, before the first respondent. Further this issue cannot be decided as preliminary issue, since the Labour Court shall decide all the issues together and shall not split the issues into preliminary or non-preliminary issues so that the proceedings may come to an end at the earliest.

7. Further the Labour Court can decide the issued as preliminary with regard to the enquiry conducted by the enquiry officer. If the Labour Court found that the enquiry officer conducted enquiry without following the procedure as contemplated under the Act, the Labour Court may decide it as preliminary issue, after giving opportunity to the parties concerned. However, in the case on hand, the issue raised by the petitioner management need not to try as preliminary issue and the Labour Court rightly dismissed the application filed by the petitioner.



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This Court finds no infirmity or illegality in the order passed by the Labour Court and the prayer sought for in these writ petitions devoid of merits and liable to be dismissed.

8. Accordingly, all the writ petitions are dismissed. The first respondent viz., Labour Court, Salem, is directed to dispose all the industrial disputes raised by the workmen, within a period of six months from the date of receipt of a copy of this Order. There shall be no order as to cost.

19.09.2023

Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

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To

1. The Presiding Officer,
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G.K.ILANTHIRAIYAN. J.

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