



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 04-08-2023

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

AND

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.A.No.1750 of 2023

General Secretary,
Chennai Perunagara Jananaayaga
Thozhilaalar Sangam.

...

Appellant

-VS-

1.The Government of Tamil Nadu,
rep. by its Principal Secretary,
Labour and Employment Dept.,
Fort St.George,
Chennai -600 009.

2.The Management,
B & C Mills.

...

Respondents

Appeal under Clause 15 of the Letters Patent against the order, dated
27.04.2023, passed in W.P.No.16115 of 2014.

For Appellant : Mr.S.Kumaraswami

For Respondent 1 : Mrs.V.Yamunadevi,
Spl.Govt.Pleader.

For Respondent 2 : Mr.Anand Gopalan,
for M/s.T.S.Gopalan & Co.

JUDGMENT
(By *S.Vaidyanathan,J.*)

This appeal has been preferred against the order, dated 27.04.2023, passed in W.P.No.16115 of 2014.

2. The case of the appellant Union was that the second respondent Management had allotted residential plots to its employees; all the employees, who were continuing in service after 28.05.2008, were to be allotted 1000 sq.ft. of land for building houses and also granted interest free loan of Rs.3.00 lakhs; the land should be allotted in Perambur Barracks area, Chennai, as the earlier allotments were done in the same location; and, that, till then, the employees were to be permitted to reside in the vacant houses.

3. The Government declined to refer the dispute for adjudication on the ground that the demands were not part of the Circular and hence there was no need to refer the dispute. Aggrieved over that, the appellant filed the Writ Petition, which was dismissed by the learned single Judge. Hence, this appeal.

4. Learned counsel for the appellant Union submits that he confines his relief only with regard to the issue of allotment of residential plots. He would further submit that though the entire issues have got to be referred and adjudicated upon by the appropriate Tribunal/Labour Court and the Government cannot decide the *lis* between



the parties, he is insisting upon Demand No.8, namely, grant of residential plots, and giving up other issues in the industrial dispute.

5. The Apex Court, in a catena of decisions, more particularly in *M.P. Irrigation Karamchari Sangh v. State of M.P. and Another*, 1985 (2) SCC 103, and *Telco Convoy Drivers Mazdoor Sangh & Another v. State of Bihar*, 1989 (3) SCC 271, has held that Government cannot decide the *lis* between the parties and it is the Tribunal/Labour Court that has to decide the issue. Even, the Supreme Court, in *Avon Services (Production Agencies) Pvt. Ltd. v. Industrial Tribunal, Haryana, Faridabad, & Others*, 1979 (1) LLJ 1 (SC), has held that even though the dispute is declined once and there is no material afresh, Government needs to refer the same for adjudication.

6. In view of the above, we direct that Demand No.8 has to be referred to appropriate Tribunal/Labour Court by first respondent - Government within a period of 15 days from the date of receipt of a copy of this order. On such reference, it is open for the Management to raise all the factual and legal aspects available to them and defend the case in accordance with law.

7. Mr.Anand Gopalan, learned counsel appearing for second respondent, would submit that second respondent company no longer exists and that proper company needs to be added as a party to the dispute. He would also submit that claim of the Union is restricted only to 22 employees.



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8. In such a situation, it is open for the appellant Union to file necessary impleading petition before the proper industrial forum to bring appropriate Management as a party, in which event, orders can be passed by the said forum after hearing the parties concerned on merit by restricting the relief to the 22 employees concerned and the members as agreed by the Union.

9. Writ Appeal is allowed accordingly. No costs.

Index : Yes/No
Internet : Yes/No
dixit

(S.V.N.,J.) (K.R.S.,J.)
04-08-2023

To

The Government of Tamil Nadu,
rep. by its Principal Secretary,
Labour and Employment Dept.,
Fort St.George,
Chennai -600 009.



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5/5



W.A.No.1750/2023

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