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W.P.No.25015 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.25015 of 2021

S.Ayyathurai

... Petitioner

Vs.

1.Union of India,
Rep. by its Secretary,
Ministry of Labour,
Shram Sakthi Bhavan,
New Delhi – 110 001.

2.The Secretary,
Central Government Industrial Tribunal cum Labour Court,
Shastri Bhavan,
Haddows Road,
Chennai – 600 006.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the 1st respondent to appoint the Retired District Judge from the Tamil Nadu cadre satisfying the conditions prescribed under Section 7A and 8 of the Industrial Disputes Act, 1947 as the Presiding Officer to the 2nd respondent Tribunal within the time frame stipulated by this Court.

For Petitioner : Mr.S.Ravidran
Senior Counsel
for M/s.O.Raman



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For Respondents : Mr.AR.L.Sundaresan
Additional Solicitor General
assisted by Mr.G.Ilangovan
Central Government Standing Counsel [R1]

ORDER

This Writ Petition has been filed seeking for a Writ of Mandamus, to direct the first respondent to appoint the retired District Judge from the Tamil Nadu cadre satisfying the conditions prescribed under Section 7A and 8 of the Industrial Disputes Act, 1947 as the Presiding Officer to the second respondent Tribunal within the time frame stipulated by this Court.

2. The case of the petitioner is that, he is an advocate practicing for more than 19 years in the Labour Courts, Industrial Tribunal, Central Government Industrial Tribunal cum Labour Court and this Court and he is the President of Labour Law Practitioners' Association, Chennai. After the present Presiding Officer has taken charge, the second respondent Tribunal is not working efficiently and the industrial disputes under EPF Act are pending without any progress. The specific allegation against the present Presiding Officer is that, she does not know Tamil language, thereby, she is unable to dispose of the



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cases, which was filed by the innocent workmen, who did not know English language and the entire proceedings are in Tamil language and it is difficult for the petitioner to translate all those papers from Tamil to English, thereby, the petitioner filed the above writ petition before this Court.

3. Though very many grounds have been raised in this writ petition, the learned counsel appearing for the petitioner submits that, it would suffice, if this Court issues a direction to the first respondent to appoint the retired District Judge from the Tamil Nadu cadre satisfying the conditions prescribed under Sections 7A and 8 of the Industrial Disputes Act, 1947 as the Presiding Officer to the second respondent Tribunal within the time frame stipulated by this Court.

4. The learned Additional Solicitor General appearing for the first respondent, on instructions, submitted that, the appointment of Presiding Officer in the second respondent Tribunal is done on the basis of recommendations of a Search-cum-Selection Committee (SCSC) constituted under the Tribunal Reforms Act, 2021 (in short 'the Act') and it is headed by the Hon'ble Sitting Judge of the Supreme Court of India. After following due process the SCSC gives its recommendations and on the recommendation of the



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Committee approval of the Appointments Committee of the Cabinet (ACC) is obtained. In the instant case, necessarily the first respondent has to follow all the procedures contemplated under the Act and the appointments are going to be made based on the recommendation made by SCSC before the Hon'ble Sitting Judge of the Supreme Court in terms of the Act. Hence, he submits that, no mandamus can be issued to issue a direction to the Hon'ble Sitting Judge of the Supreme Court to consider the grievance expressed by the petitioner, since there is no violation under the statute. If there is any violation under the statutes or the authority not performed in terms of the statutes, then only Mandamus can lie. Accordingly, he prays for dismissal of the writ petition.

5. Heard the learned counsel for the petitioner and the learned Additional Solicitor General appearing for the first respondent and perused the materials available on record.

6. As rightly pointed out by the learned Additional Solicitor General appearing for the first respondent that, the appointment of the Presiding Officers in the second respondent Tribunal is done on the basis of the recommendation of SCSC constitute under the Act and the same is headed by the Hon'ble Sitting Judge of the Supreme Court. After following the due



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process, the SCSC is giving its recommendations and on the basis of the recommendation of the Committee approval of the ACC is obtained. In the present case, the present Presiding Officer is appointed after following the procedures prescribed under the Act, which is sustainable. Therefore, this Court cannot render any opinion or issue any direction to the Hon'ble Sitting Judge of the Supreme Court to appoint a new Presiding Officer in the second respondent Tribunal. Hence, the writ petition is liable to be dismissed.

7. Accordingly, this writ petition is dismissed. No costs.

28.08.2023

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
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To

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New Delhi – 110 001.

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Central Government Industrial Tribunal cum Labour Court,
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M.DHANDAPANI, J.

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