



W.P.No.5877 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated : 11.09.2024

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THE HON'BLE **MRS.JUSTICE R.N.MANJULA**

W.P.No.5877 of 2010
and M.P.No.1 of 2010

The Management of
Parry Agro Industries,
Carolín Estate, Mango Range Post,
The Nilgiris – 643 220 ... Petitioner

Vs.

1. The Presiding Officer,
Labour Court, Coimbatore.

2. The General Secretary,
Nilgiri Jilla Plantation Workers' Union,
(INTUC), Gudalur, Nilgiris District.

3. Swamynathan. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in I.A.No.81 of 2008 in I.D.No.427 of 2004 and quash its order dated 03.12.2009.

For Petitioner : Mr.P.Raghunathan
for M/s.T.S.Gopalan and Co.

For Respondents : Mrs.M.Jayanthi (for R1)
Additional Government Pleader



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No Appearance (for R2)
Mr.G.B.Saravanabhavan (for R3)

ORDER

The petitioner has filed this writ petition challenging the order passed by the learned Presiding Officer, Labour Court, Coimbatore, dated 03.12.2009 made in I.A.No.81 of 2008 in I.D.No.427 of 2004.

2. The 3rd respondent who has been given with the transfer order has challenged the same through his Union and on the reference made in this regard, an Industrial Dispute was raised before the Labour Court in I.D.No.427 of 2004. During the pendency of the proceedings, the Union lost interest and it did not choose to pursue further. Hence, the Industrial Dispute came to be dismissed for default on 01.09.2006. However, the 3rd respondent, who is the workman has filed the Interlocutory Application in I.A.No.81 of 2008 stating that it is his interest which was the subject matter in the Industrial Dispute, hence he should be allowed to be impleaded as a party to the proceedings and that the Industrial Dispute should be restored. The learned Presiding Officer has allowed the above application and aggrieved over the same, the Management has preferred this writ petition.



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3. The learned counsel for the petitioner submitted that the order has been passed by the learned Presiding Officer without jurisdiction and that the workman who has challenged the order of transfer should have raised the dispute only under 2(k) and not under 2(a) dispute. The 3rd respondent did not suffer with an order of dismissal, discharge, retrenchment or other termination, and he cannot raise any dispute of this fashion before the tribunal. It is further submitted that while the 3rd respondent/workman had allowed his Union to espouse his cause, and the dispute has come on reference, the workman has got no role to play as the dispute is only between the Union and the Management.

4. Before advertng into the merits of the case, it has to be seen that the Industrial Dispute itself has been raised in the year 2004 and impugned order has been passed in the year 2009 and according to the submission made by the learned counsel for the 3rd respondent, the 3rd respondent has attained the age of superannuation and has retired from service. After having retired from service, the cause of action based upon an order of transfer itself would become not only insignificant, but also infructuous. So, at this length of time, it is unnecessary to delve into a dispute which revolves around an order of transfer in respect of a



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workman who is no more in service. Hence, this writ petition is disposed of as the Industrial Dispute itself has become infructuous.

5. The writ petition stands dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

11.09.2024

Speaking / Non Speaking order

Index : Yes / No

Neutral Citation: Yes/No

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