



WEB COPY



W.P.No.41077 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2024

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.41077 of 2015

Perundurai Parryware
Roca Tholilarkal Munetra Sangam,
rep. By its Secretary,
5/14, Lakshmi Nagar,
Bhavani Main Road,
Karumandi Chellipalayam,
Perundurai – 628 052, Erode.

... Petitioner

Vs

1.The Government of Tamil Nadu,
Rep. By its Principal Secretary,
Labour and Employment Department,
Fort St. George, Chennai – 9.

2.The Management
Roca Bathroom Products Private Ltd.,
Plot No.R-11, SIPCOT Industries,
Growth Centre, Perundurai,
Erode.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the order dated 30.01.2014 passed by the 1st respondent in G.O.(D)No.51, Labour and Employment Department (D1) Department quash the same and consequently direct the 1st respondent to refer the dispute raised by the petitioner for adjudication to the Competent Labour Court/Tribunal forthwith.



WEB COPY



W.P.No.41077 of 2015

For Petitioner : Mr.V.Ajoy Khose
For R1 : Mr.M.S.Arasakumar
Government Advocate
For R2 : Mr.Anand Gopalan
for M/s.AGAM Legal Advocates

ORDER

The issue raised in this writ petition is with regard to the refusal of the Government in referring the matter for adjudication to the Labour Court/ Industrial Tribunal by virtue of G.O.(D).No.51, Labour and Employment (D1) Department, dated 30.01.2014.

2. The petitioner Union had entered into a settlement under Section 12(3) of the Industrial Disputes Act with the 2nd respondent Management. Even though it is a 12(3) settlement where two clauses viz., Clauses 19 and 20 pertaining to the work load of the employees are concerned, it is onerous, unreasonable and unfair, therefore to declare the said Clauses 19 and 20 of the said Section 12(3) settlement dated 30.01.2014 as unreasonable, such a reference was sought for to be made to the Labour Court for adjudication from the Government which was negated by the orders which is impugned herein dated 30.01.2014.



W.P.No.41077 of 2015

3. Heard Mr.V.Ajoy Khose, learned counsel appearing for the petitioner, Mr.M.S.Arasakumar, learned Government Advocate appearing for the 1st respondent and Mr.Anand Gopalan, learned counsel appearing for the 2nd respondent.

4. The learned counsel appearing for the 2nd respondent pointed out that, the Section 12(3) settlement dated 30.01.2014 expired on 08.12.2014 thereafter atleast three such Section 12(3) settlement has been entered upon between the employer and employees Union i.e. the very same petitioner Union.

5. Therefore he submits that, insofar as the prayer sought for in this writ petition to seek declaration of such clauses i.e. Clauses 19 and 20 of the settlement dated 30.01.2014 as unreasonable is not feasible for compliance, because, the settlement itself came to an end by 08.12.2014, therefore at this juncture the validity or otherwise of the impugned order i.e. G.O.(D).No.51 cannot be questioned.

6. However, on the other hand Mr.V.Ajoy Khose, learned counsel appearing for the petitioner had contended that, even though the Clauses



W.P.No.41077 of 2015

19 and 20 of the 12(3) settlement dated 30.01.2014 was requested to be referred for adjudication and the settlement also expired on 08.12.2014 thereafter in all the three such settlements the very same clauses are continuing despite the charter of demand has been made by the employee's Union, therefore the onerous conditions or the situation that has been faced by the employees by having the extra work load is still continuing, therefore the issue cannot be said to be a closed one and therefore it shall be decided, he contended.

7. I have considered the said rival submissions made by the learned counsel appearing for both sides and have perused the materials placed before this Court.

8. As has been rightly pointed out by the learned counsel appearing for the 2nd respondent, the very Section 12(3) settlement itself has come to an end by 08.12.2014 thereafter three such settlements had entered upon and the last such settlement which is in force currently will come to an end by end of 2024.



W.P.No.41077 of 2015

9. So far as the future settlement is concerned, this is the time where the employee's Union can raise the charter of demand to the Management. When they raise the charter of demand, they can also raise this issue to delete such Clauses like 19 and 20 of 30.01.2014 settlement in future settlement or such clauses can be modified to the extent possible as desired by the employee's Union with regard to the work load.

10. If such a demand is made that can be considered by the 2nd respondent Management and even then if the 2nd respondent Management has not considered despite the charter being raised by the employee's Union, then it is open to the employee's Union to agitate the issue afresh by requesting the Government to refer the matter for the adjudication before the Industrial Tribunal or Labour Court and in such cases, it is for the Government to take a decision taking note of all these aspects.

11. In view of the aforesaid, I am inclined to dispose of this writ petition with the following orders:

- (i) That the impugned order passed by the 1st respondent since relates to the Section 12(3) settlement



W.P.No.41077 of 2015

WEB COPY

which ended on 08.12.2014, the challenge made against the said order cannot be further persuaded at this juncture, therefore to that extent the prayer sought for by the writ petitioner is to be rejected accordingly is rejected.

(ii) However, since the current Section 12(3) settlement would expire by the end of 2024, therefore for the future such settlement the charter of demand can very well be raised by the employee's Union i.e. the petitioner where it is open to the petitioner employee's Union to raise such a charter of demand specifically with regard to the work load as that of the Clauses 19 and 20 of 30.01.2014 settlement as such clauses if it is offending the work load of the employee's Union that can very well be requested by way of charter of demand to the Management and if any such demand is made, that shall be objectively considered by the 2nd respondent Management and accordingly the future settlement can be reached between them.

(iii) Still the employee has got any grievance or if the 2nd respondent Management has not considered such charter of demand, then it is very well open to the petitioner



W.P.No.41077 of 2015

WEB COPY

Employee's Association to re-agitate the issue by requesting the Government to refer the matter for adjudication afresh to the Labour Court or Industrial Tribunal. In such case the 1st respondent Government shall consider it objectively and pass necessary orders referring the matter to the Labour Court/Industrial Tribunal for adjudication.

12. With these directions and observations, the Writ Petition is disposed of. No costs.

22.01.2024

Index : Yes / No

Speaking Order : Yes / No

Neutral Citation : Yes / No

Sgl

To

1.The Principal Secretary,
Government of Tamil Nadu,
Labour and Employment Department,
Fort St. George, Chennai – 9.

2.The Management
Roca Bathroom Products Private Ltd.,
Plot No.R-11, SIPCOT Industries,
Growth Centre, Perundurai, Erode.



WEB COPY



W.P.No.41077 of 2015

R.SURESH KUMAR, J.

Sgl

W.P.No.41077 of 2015

22.01.2024