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WP.No.9742 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.04.2024

CORAM:

THE HON'BLE DR JUSTICE D.NAGARJUN

WP.No.9742 of 2024

and

WMP.Nos.10781 & 10786

The Management
Hatsun Agro Product Limited
Senganpasunthal Village,
Golasanahalli, Palacode,
Dharmapuri – 636 808.

...Petitioner

Versus

1.Government of Tamil Nadu,
Rep by its Additional Chief Secretary,
Department of Labour Welfare and Skill Development
Fort St. George,
Chennai – 600 009.

2.Dharmapuri District Milk Industries Workers Union
(Reg.No.690/DRP)
Rep.by its General Secretary
No.2D, Narasimman Street,
Dharmapuri – 636 701.

...Respondents

Prayer:This writ petition is filed under Article 226 of the Constitution of India, with a prayer to issue a writ of Certiorari calling for the records of the 1st respondent in GO.(D).No.206, Labour Welfare and Skill (D1) Development and quash its order dated 15.03.2024.

For Petitioner

:

Mr.NC.Sridharan



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For Respondents : Mr.RU.Dinesh Raj Kumar
Additional Government
Pleader – R1.
: Mr.V.Ajoy Khose – R2.

ORDER

This writ petition is filed under Article 226 of the Constitution of India, with a prayer to issue a writ of Certiorari calling for the records of the 1st respondent in GO.(D).No.206, Labour Welfare and Skill (D1) Development and quash its order dated 15.03.2024.

2. It is submitted by the learned counsel for the petitioner that during the month of August 2021 and October 2021, considering the business exigencies and work requirement of the petitioner company, the petitioner has transferred 91 workmen. Out of which 51 workers were transferred within the State of Tamil Nadu and the and 38 workers were transferred outside the State of Tamil Nadu. The 2nd respondent Union raised an industrial dispute No.478 of 2021 before the Assistant Commissioner of Labour, Krishnagiri with regard to transfer of workmen and with other demands. The petitioner by way of reply dated 08.11.2021 justified the transfers of the workmen. A failure report was submitted by



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the Conciliation Officer on 14.03.2022. Again at the instance of the respondent union conciliation proceedings were initiated by Additional Commissioner of Labour, Coimbatore. During the conciliation proceedings on 05.07.2022, the petitioner management has agreed to accommodate 38 workmen who were transferred outside the State of Tamil Nadu, within the State of Tamil Nadu.

3. On 12.08.2022, the Additional Commissioner of Labour Coimbatore advised the workmen to report for work to the places to which they were transferred. Subsequently, the conciliation proceedings were closed by the Assistant Commissioner, Coimbatore on 05.06.2023.

4. The respondent has filed WP.No.3749 of 2024 directing the 1st respondent to refer the dispute regarding transfer of employees and other issues for adjudication under Section 10B of the ID Act and also initiated steps for prosecution of the management for committing unfair practises. In the meanwhile, 1st respondent has passed GO.(D).No.206, Labour Welfare and Skill (D1) Development dated 15.03.2024 and two other orders referring the matter for adjudication.



5. It is submitted by the learned counsel for the petitioner that as on the date of issuance GO.(D).No.206, Labour Welfare and Skill (D1) Development dated 15.03.2024, the orders of transfer of 38 workmen outside the State of Tamil Nadu, were cancelled and another orders were issued transferring the said 38 workmen to various places within the State of Tamil Nadu. However, the issue of transferring 38 workmen outside the State of Tamil Nadu is mentioned as one of the issues to be settled by the Labour Court in impugned GO.(D).No.206, Labour Welfare and Skill (D1) Development dated 15.03.2024. Considering the same, the schedule attached to GO.(D).No.206, Labour Welfare and Skill (D1) Development dated 15.03.2024 is factually incorrect. As already observed as on the date of issuance of GO.(D).No.206, Labour Welfare and Skill (D1) Development dated 15.03.2024, none of the workmen were transferred outside the State of Tamil Nadu.

6. In case if this reference is allowed to continue, it amounts to directing the Tribunal to decide an issue which is not existing at all. In case if the reference is made, the Tribunal will undertake the enquiry to decide as to whether transferring of some of the workmen outside the State of Tamil Nadu is an unfair labour practices. In fact none of the



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workers has been transferred outside the State of Tamil Nadu as on the date of issuance of the GO.

7. Learned AGP in principal agreed that in case that if the said GO, is set aside, the Government will issue a fresh GO in a short span of time by correctly mentioning the place of transfer of the workers who were transferred to various places within the State of Tamil Nadu and also by mentioning date of transfer to the new location. Learned counsel representing the respondent No.2 workers union also submitted that in principal the Union has also no objection for quashing the said GO and for issuance of fresh GO for reference giving the correct location and date of transfer of the workers, however, sought for inclusion in the reference that earlier these 38 workers were transferred to the outside the State of Tamil Nadu and were subsequently brought back to the Tamil Nadu. This request of the 2nd respondent Union cannot be considered as it is the prerogative of the Government to incorporate the issues to be settled by the Lower Court.

8. Considering the discussion made above, this writ petition stands disposed off setting aside the GO.(D).No.206, Labour Welfare and Skill



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(D1) Development dated 15.03.2024 directing the R1/ Government of Tamil Nadu to issue fresh GO referring the dispute by correctly mentioning the transferred locations and date of transferred locations of the 38 workers in the annexure attached to the said GO, within a period of (6) six weeks from the date of receipt of copy of this order. There shall be no order as to costs. Connected writ miscellaneous petitions also stand closed.

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Index :Yes/No
Speaking :Yes/No
Neutral Citation Case:Yes/No
nst



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To:

1.Regional Provident Fune Commissioner _ II,
Employees Provident Fund Organization
Regional Office,
Tambaram,
Rajaji Salai,
Chennai – 600 045.

2.The Recovery Officer,
Employees Provident Fund Organization,
Regional Office,
Tambaram,
Rajaji Salai,
Chennai – 600 045.

DR D.NAGARJUN,J.

nst



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