



W.P.No.19774 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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ORDER RESERVED ON: 30.01.2024

ORDER PRONOUNCED ON: 15.03.2024

Coram:

THE HONOURABLE MRS.JUSTICE N.MALA

W.P.No.19774 of 2022

and

WMP.No.19067 of 2022

INTUC TTK Health Care Employees Union,
Rep. by its Secretary, (Aff.No.1841/RTU/2018)
No.1, Pillaiyar Kovil Street, Thirubuvanai Palayam,
Puducherry-605 107.

...Petitioner

Vs.

1. M/s. TTK Health care Limited,
Rep. by its Managing Director,
Puducherry- 605 102.

2. TTK Protective Devices Limited,
Rep. by its Managing Director,
TTN Complex, No.12, K.P.N.Natham Road,
Thiruvadarkovil, Puducherry-605 102.

3.Packwell Packaging Products Limited,
Rep. by its Managing Director,
TTN Complex, No.12, K.P.N.Natham Road,
Thiruvadarkovil, Puducherry-605 102.

4.United Labour Federation,
Rep. by its Joint Secretary,



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No.149, 4th floor, C.J.Complex,
Thambu Chetty Street, Chennai.

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...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue Writ of Certiorarified Mandamus, calling for the records relating to the Award dated 24.02.2022 passed by the Industrial Tribunal, Puducherry in IA.No.161 of 2019 and I.A.No.10 of 2021 in I.D.(T).No.13 of 2014 and quash the same as being illegal and unjust and direct the 1st respondent to adjudicate the I.D.(T).No.13 of 2014 on merits and in accordance with law, after affording opportunity to the petitioner, within a time frame.

For Petitioner : Mr.C.K.Chandrasekar

For Respondents : Mr.S.Ravi

for M/s. Gupta & Ravi
for RR1 & 2

Mr.R.Jayaprakash

for R3

M/s.S.Aishwarya for R4

ORDER

Writ petition is filed for a writ of certiorarified mandamus calling for the records relating to the Award dated 24.02.2022 passed by the Industrial Tribunal, Puducherry in IA.No.161 of 2019 and I.A.No.10 of 2021 in I.D.(T).No.13 of 2014 and quash the same as illegal and unjust and to direct



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the 1st respondent to adjudicate the I.D.(T).No.13 of 2014 after affording opportunity to the petitioner, within a time frame.

2. The facts in a nut shell are as follows:

Initially the members of the petitioner union who are employees of the 1st respondent, were members of the 4th respondent herein. The 4th respondent union raised the dispute against the 1st respondent over a charter of demands and wage revision. The 1st respondent did not accept the charter of demands and wage revision and therefore the matter was referred for conciliation. As the conciliation failed, vide G.O. dated 13.08.2014, the Government referred the dispute for adjudication before the Industrial Tribunal which was registered as I.D.(T).No.13 of 2014. The 4th respondent union filed claim petition on the basis of the charter of demands relating to the various service conditions of the workers. As the dispute did not progress well, it was felt that the 4th respondent was not espousing the cause of its workers and hence the Petitioner Union was formed. After its formation, the petitioner filed implead application in I.D.(T).No.13/2014



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which was allowed by the Industrial Tribunal and the petitioner was impleaded in I.D.(T).No.13/2014. After the petitioner union was impleaded, the 4th respondent herein entered into 18(1) settlements on 29.08.2019 and 27.07.2019 with the 1st respondent. As the majority of the member's of the petitioner union were not satisfied with the terms of the 18(1) Settlement they did not accept it. While so, the 1st and 3rd respondents filed I.A.No.10 of 2021 and I.A.No.161 of 2019 in I.D.(T). No.13 of 2014 under Section 11 of the I.D. Act, seeking the Industrial Tribunal to pass Award in terms of the settlement dated 29.08.2019 and 27.07.2019, entered into with the 4th respondent. The petitioner union opposed the I.As' on the ground that the settlement did not match its demands and also that the settlement was ex-facie illegal and exploitative. The Labour Court by common order dated 24.02.2022 allowed both the I.A.s' on the premise that the majority of the employees had accepted the settlement and signed. The Industrial Tribunal further directed that the benefits under the 18(1) settlement could be extended to the protesting employees also as no prejudice would be caused to them. Aggrieved by the common order



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passed in the I.As' the petitioner has filed the above writ petition.

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3. The learned counsel for the petitioner vehemently argued that there were serious flaws in the adjudication process and therefore the order deserved to be set aside. According to the learned counsel, a cursory glance at the charter of demands raised by the petitioner union would establish that the 18(1) settlement was an unfair labour practise and also that the settlement was detrimental to the interest of the workers. The learned counsel submitted that the tribunal abdicated its duty by simply accepting the settlement without adjudicating on the fairness of the same, particularly, when several demands of the petitioner union were not addressed in the 18(1) settlement. The learned counsel further pleaded that the Labour Court considering that the case was pending before it for over 8 years, in the interest of justice ought to have examined the merits of the claim and the fairness of the 18(1) settlement. The learned counsel therefore submitted that the Labour Court misdirected itself by merely relying on the numbers for allowing the petition.



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4. The learned counsel for the 1st respondent on the other hand submitted that the Award of the labour Court was totally justified, as the Labour Court had given sound reasons for allowing the I.As' The learned counsel further submitted that during the pendency of the dispute the respondent signed 18(1) settlements on 27.07.2019 and 29.08.2019 with the 4th respondent union and that majority of the workmen accepted the same. The learned counsel submitted that the 18(1) settlements were accepted by 151 out of the 219 workman employed by it. The learned counsel further submitted that all 151 workmen who accepted the settlement, received the benefits in full and final settlement of the claims. The learned counsel further submitted that under the settlement there was substantial increase in wage and benefits to the workman and therefore the settlement was fair and proper.

5. I have heard both the learned counsels and I have perused the materials placed on records.



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6. It is undisputed that the 4th respondent union raised the dispute against the management over the charter of demands and wage revision.

On failure of conciliation the matter was referred for adjudication before the Industrial Tribunal in I.D.(T). No.13 of 2014. It is the case of the petitioner that though it was the 4th respondent who initially raised the dispute but, as for 8 long years, the 4th respondent did not prosecute the dispute, some of the members of the 4th respondent union and other workmen out of sheer frustration joined and formed the petitioner union. The petitioner union after its formation filed application in the I.D. to implead itself. The said application was allowed by the Industrial Tribunal and the petitioner union filed an amended claim petition in the I.D. While so the 4th respondent entered into 18(1) settlements with the management on 27.07.2019 and 29.08.2019 and thereafter the 1st and 3rd respondents filed I.A.No.10 of 2019 and I.A.No.161 of 2019 to pass an Award in terms of the settlement before the Labour Court in the I.D. The Labour Court allowed the I.A's and hence the petitioner union has filed the above writ petition challenging the same.



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7. It is seen that the I.D was raised in 2013 and till 2019 there was little progress in the case. Thereafter the petitioner union was formed because the workmen were not satisfied with the 4th respondent unions activities. On 04.04.2019, the petitioner filed the implead application to implead itself in the I.D. It was only after filing of the implead application on 04.04.2019 that the 4th respondent woke up from its deep slumber and hastily signed the 18(1) settlement with the management on 08.08.2019. The conduct of the 4th respondent in not diligently prosecuting the ID for over 8 years and suddenly entering into the 18(1) settlement with the management that too, after the implead petition of the petitioner was allowed, raises serious doubts on the bonafides of the 4th respondent and the management. Under the circumstances, the Labour Court in all fairness should have gone into the merits of the settlement before allowing the I.A. The long lapse of 8 years definitely caused frustration in the minds of the workman which is evident from the formation of the petitioner union in 2019 and hence it cannot be taken that the settlements were entered into freely. In my view the settlements were on outcome of sheer frustration



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and desperation of the workers. The Labour Court in the light of the above facts ought to have examined the fairness of the settlement, moreso, when several demands raised by the petitioner were according to them, not addressed in the settlements. The Labour Court relied on the Judgement of the Hon'ble Supreme Court in the case of *Herbertsons Limited vs. Workmen of Herbertsons Limited and others* reported in 1976 (4) SCC 736, to hold that the settlement was to be taken as package deal, and the result of some mutual give and take between the union and the management for betterment of both sides. The Labour Court thereafter went into the numbers and held that 151 out of the 219 employees had accepted and signed the settlement with open eyes and so it should be presumed to be a just and fair settlement. In my considered view, the Labour Court failed to note that in the aforesaid Judgment the Hon'ble Supreme Court even while laying down the law on the approach to be adopted while judging the fairness of a settlement called for a finding from the Labour Court on the fairness of the settlement. It is therefore seen that only after satisfying itself on the fairness of the settlement, the Apex Court went on to hold that when



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the settlement was accepted by the majority of the workers, it should be viewed as a package deal with some give and take on either side. It is pertinent to note here that, the Apex Court even though found that a recognised and registered union had entered into voluntary settlement, nevertheless, thought it fit to examine the fairness of the settlement.

8. In the Judgment reported in 1973 (2) SCC 134, it is seen that the Labour Court therein gave a finding that the terms of settlement were beneficial to the workers and that it was a genuine settlement. In the Judgment reported in 1978 (2) SCC 133, the Court found on the facts therein that settlement was just and fair, as the Labour Court had made proper comparison of the wages and dearness allowance on industry-cum-region basis, in giving its award. In 1981 (4) SCC 627 the Hon'ble Supreme Court found on facts that the Tribunal held that the settlement was just and fair in most aspects and therefore rejected the challenge stating that it was not possible to scan the settlement in bits and pieces and thereafter held that as the settlement was accepted by majority of the workman it must be



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presumed that the settlement was just and fair. The Judgment reported in 1989 (2) LLN 515, in my view is distinguishable on facts. The Judgment reported in 1996 (10) SCC 446, it was again found on facts that the terms of the settlement were fair and just. Therefore even from the Judgments relied on by the respondents counsel, it is clear that it was only on satisfaction of the fairness and justness of the settlements that the same were confirmed. The said Judgments cannot be taken to have laid down the law that even without examining the fairness and justness of the settlement, on sheer members the fairness and the justness of the settlement could be determined. In my view a *prima facie* satisfaction of the fairness of the settlement ought to be recorded before affixing the stamp of approval even if the majority of members had accepted it.

9. In the light of the above discussions, I am of the view that the Labour Court considering that the dispute was pending for 8 long years and also that the petitioner objected to the settlements as being unfair and unjust ought to have *prima facie* satisfied itself on the fairness and justness



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of the settlements, by examining the various demands of the workmen. The approach of the Labour Court that as the majority of workers accepted the settlement (which was seriously disputed by the petitioner) it should be presumed to be just and fair settlement, in my view cannot be accepted.

10. For all the above reasons, I find merit in the writ petition and therefore the same is allowed.

In view of the fact that the dispute has been pending for more than 8 years the Industrial Tribunal Cum Labour Court, Puducherry is directed to dispose of the main I.D(T).No.13 of 2014 as expeditiously as possible. No costs. Consequently connected WMP is closed.

15.03.2024

dsn

Index:Yes/No

Speaking Order: Yes/No

Neutral Citation:YesNo



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The Presiding Officer,
Industrial Tribunal Cum Labour Court,
Puducherry.



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N.MALA.J.

dsn

PRE-DELIVERY ORDER IN

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ORDER DELIVERED ON

15.03.2024

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