



W.P.Nos236, 238 & 240 of 2022

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2024

CORAM

THE HONOURABLE MRS. JUSTICE N.MALA

W.P.No.236,238 and 240 of 2022

and

W.M.P.No.269,272 and 273 of 2022

MUFG Bank Ltd.,
Rep. by its Officer
S.Krishnan
Sesed shachalam Centre, 6th Floor,
636/1 Anna Salai, Nandanam
Chennai - 600 035.

..Petitioner

Vs.

- | | | |
|----|-----------------|--------------------------------------|
| 1. | Jayananda Nayak | ...Respondent in W.P.No.236 of 2022 |
| 2. | R.Chandran | ...Respondent in W.P.No.238 of 2022 |
| 3. | A.Chinnappan | ...Respondent in W.P.No. 240 of 2022 |

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus

(i) calling for the records and the proceedings relating to the order dated 16.09.2021 in I.D.No.14 of 2021 on the file of the Central Government Industrial



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Tribunal cum Labour Court and to quash the same and permit the representation of the petitioner herein being respondent in I.D.No.14/2021, on the file of the Central Government Industrial Tribunal cum Labour Court through legal counsel.
(W.P.No.236 of 2022)

(ii) (i) calling for the records and the proceedings relating to the order dated 16.09.2021 in I.D.No.15/2021 on the file of the Central Government Industrial Tribunal cum Labour Court and to quash the same and permit the representation of the petitioner herein being respondent in I.D.No.15/2021 on the file of the Central Government Industrial Tribunal cum Labour Court through legal counsel.
(W.P.No.238 of 2022)

(iii) (i) calling for the records and the proceedings relating to the order dated 16.09.2021 in I.D.No.13 of 2021 respectively on the file of the Central Government Industrial Tribunal cum Labour Court and to quash the same and permit the representation of the petitioner herein being respondent in I.D.No.13 of 2021 respectively, on the file of the Central Government Industrial Tribunal cum Labour Court through legal counsel.(W.P.No. 240 of 2022)

For Petitioner : Ms.G.Shanthi Meenakshi
in all the cases

For respondents : Mr.K.M.Ramesh
in all the cases Senior Counsel
for Mr.V.Subramani



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COMMON ORDER

In view of the inter connectivity of cases, these writ petitions are considered and decided by this common order.

2. These writ petitions are filed challenging the proceedings dated 16.09.2021 in I.D.Nos.14,15 and 13 of 2021 respectively, rejecting the request of the petitioner to engage legal practitioner to represent it in the ID proceedings.

3. The respondents raised industrial dispute against the petitioner and the same was registered before CGIT Labour Court in I.D.No.14 of 2021, I.D.No.15 of 2021 and I.D.No.13 of 2021. The petitioner was summoned to appear on 12.07.2021. On the said date the petitioner appeared through his counsel. On the same day the respondent through his authorized representative, filed a memo under Section 36(4) of the I.D. Act



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objecting to the representation of the petitioner through a legal practitioner.

Thereafter, the matter was adjourned to 16.09.2021 for filing of counter affidavit by the petitioner herein.

4. According to the petitioner, on 16.09.2021 the petitioner herein prayed for extension of time to file his counter affidavit, but the authorized representative of the respondents objected to the petitioner Bank being represented by a counsel. The matter was again adjourned to 28.10.2021. As the Tribunal was not sitting, the officer attached to the Tribunal asked the petitioner to file its counter through its authorized representative. But the petitioner's counsel later came to know that the impugned order was passed and hence, the petitioner filed this writ petition for the above said relief.

5. The learned counsel for the petitioner submits that the impugned order was passed without considering the submissions of the petitioner



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and therefore prayed that the same may be set aside by giving an opportunity of hearing to the petitioner.

6. The learned counsel for the respondents on the other hand submits that there is no elaborate hearing contemplated under Section 36 (4) of the I.D. Act and therefore the contention of the petitioner that no hearing was conducted cannot be sustained.

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

8. It is seen that even as per the petitioners own affidavit at para '4', when the petitioner appeared through his counsel on 12.07.2021, the authorized representative of the respondent objected to the same. As there is objection by the respondent to the petitioner engaging an Advocate to represent it, the petitioner cannot be permitted to be represented by an



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Advocate in the proceedings before the Labour Court. In this regard, the Hon'ble Supreme Court in its latest Judgment reported in 2023 SCC OnLine SC 1707 has reiterated the law laid down in the case of *Paradip Port Trust, Paradip vs. Their Workmen* reported in 1977 (2) SCC 339 on Section 36 (4) of the I.D. Act. The Honb'e Supreme Court in para '22' of *Paradip Port Trust* case held as follows:

"22. Consent of the opposite party is not an idle alternative but a ruling factor in Section 36(4). The question of hardship, pointed out by the Solicitor General, is a matter for the legislature to deal with and it is not for the courts to invoke the theory of injustice and other consequences to choose a rather strained interpretation when the language of Section 36 is clear and unambiguous."

9. In view of the categorical pronouncement of the Hon'ble Supreme Court in *Paradip Port Trust* case as reiterated in the Judgment reported in 2023 SCC OnLine SC 1707, I am of the view that challenge to the impugned order's cannot be sustained.



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I therefore find no merits in the writ petitions and the same are dismissed. There shall be no order as to costs. Consequently, connected WMP.Nos. are closed.

19.01.2024

vca/dsn

Index : Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No



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N.MALA,J.

dsn/vca

To
The Central Government Industrial Tribunal
cum Labour Court.

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