



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2024

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CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.A.No.3031 of 2023

and

C.M.P.No.25075 of 2023

The Branch Manager,
Tamil Nadu State Transport Corporation Ltd.,
Puducherry Branch,
Puducherry.

... Appellant

Vs.

1.The Presiding Officer,
Industrial Tribunal,
(Principal Labour Court),
Puducherry.

2.V.Subramanian

... Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 14.03.2023 in W.P.No.31014 of 2013 passed by Learned Judge.



For Appellant : Mrs.S.Pavithra
For R1 : Labour Court
For R2 : Mr.M.Magesh

J U D G M E N T

[Judgment was delivered by **S.M.SUBRAMANIAM, J.**]

The writ appeal has been instituted challenging the order dated 14.03.2024 passed in W.P.No.31014 of 2013.

2. The writ petitioner Tamil Nadu State Transport Corporation Limited, Puducherry Branch is the appellant before us. The 2nd respondent workman filed an Interlocutory Application in I.A.No.98 of 2011 in I.D.No.5 of 2011 under Section Section 33-A of the Industrial Disputes Act, 1947 praying for an order directing the Transport Corporation to reinstate the petitioner in the same place at Puducherry Depot by setting aside the illegal order dated 30.07.2011.

3. The Interlocutory Application was filed in I.D.No.5 of 2011,



wherein, the 2nd respondent Mr.V.Subramanian was not a party. The I.D.No.5 of 2011 was filed by Pudukkottai Predeva Pokuvarathu Thozhilalar Sangam against the Tamil Nadu State Transport Corporation, Puducherry. Dispute was raised over charter of demands such as fixing of working hours, intervals kilometer per litre (KMPL) and shifts. The Industrial Dispute was adjudicated and disposed of on 28.02.2017.

4. Question arises, whether an Interlocutory Application under Section 33-A of the Industrial Disputes Act, 1947 is maintainable in an pending industrial dispute raised by the registered Trade Union.

5. In this context Rule 53 of the Tamil Nadu Industrial Dispute Rules, 1958 prescribes procedure for filing complaint before the Labour Courts or Tribunal under Section 33-A of the Industrial Disputes Act, 1947. In the present case, the procedures contemplated were not followed. The 2nd respondent was not a party to the industrial dispute. He has filed an Interlocutory Application seeking a fresh relief under Section 33-A of the Act. No doubt the workman is entitled to file a complaint under Section 33-A of the Act, during the pendency of the industrial dispute, but by following the



procedures as contemplated under Rule 53 of the Tamil Nadu Industrial Disputes Rules, 1958.

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6. Section 33-A of the Act contemplates Special provision for adjudication as to whether conditions of service, etc., are adjudicated during the change of the proceedings. It stipulates that workman may make a complaint in writing in a prescribed manner. The procedures are prescribed under Rule 53. Therefore, complaint filed under Section 33-A of the Act is to be adjudicated in the manner contemplated under the rules. Therefore, the Interlocutory Application filed in a pending ID is not maintainable. Thus, both the Labour Court and Writ Court have committed an error in entertaining an Interlocutory Application in a pending ID and decided the issues.

7. Therefore, we are inclined to interfere with the order under challenge. Accordingly, the order dated 14.03.2023 in W.P.No.31014 of 2013 is set aside. In view of the fact that it is a procedural violation, we are inclined to grant liberty to the workman to file a fresh complaint under Section 33-A of the Industrial Dispute Act, 1947 to raise a separate dispute



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for the purpose of redressal of his grievances in the manner contemplated. In the event of raising any such dispute, it is to be decided on merits and in accordance with law.

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8. With this liberty, the Writ Appeal stands allowed. No costs.

Consequently, connected Miscellaneous Petition is closed.

[S.M.S., J.] [K.R.S., J.]
20.03.2024

Jeni
Index : Yes
Speaking order
Neutral Citation : Yes

To

The Presiding Officer,
Industrial Tribunal,
(Principal Labour Court),
Puducherry.



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