



WEB COPY



W.P.No. 36563 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.12.2024

CORAM:

THE HONOURABLE MR. JUSTICE **D.BHARATHA CHAKRAVARTHY**

W.P.No. 36563 of 2024

and

W.M.P.No. 39417 of 2024

M.K. Thiagarajan

... Petitioner

Vs

The Management of Tamilnadu Petroproducts Limited,
Manali Express High Way,
Manali, Chennai 600 068.

... Respondent

Prayer: Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus, call for the records connected with the Preliminary Award dated 05.07.2024 made in I.D.36/2016 for the validity of the domestic enquiry in the preliminary issue and the order in the I.A.6 of 2024 in I.D.No. 36 of 2016 dated 11th of September 2024 for the appointment of Advocate Commissioner to elucidate the matter which are passed by the Second Additional Labour Court at Chennai are perverse and quash the same consequently direct the Second Additional Labour Court Chennai to appoint an advocate commissioner to elucidate the matter is dispute to observe the unfair labour practices prevailed in the respondent company while deciding the validity of the domestic enquiry as a preliminary issue.



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For Petitioner : Mr.M.K.Thiagarajan (P-in-P)

For Respondent : Mr.R.Jayaprakash

ORDER

This writ petition is filed as against the Preliminary Award dated 05.07.2024 made in I.D.No. 36 of 2016 and the order made in I.A.No. 6 of 2024 in I.D.No. 36 of 2016 dated 11.09.2024.

2. As far as the first limb of the prayer is concerned, in an Industrial dispute, if the Labour Court passes a Preliminary Award with reference to the fairness of procedure, the same cannot be called into question separately. The workman will be entitled to raise all the grounds against the Preliminary Award only if the final award also goes against him. While challenging the final award, he can challenge the Preliminary Award and the findings. The writ petition against the preliminary award, when the main dispute is pending adjudication, cannot be entertained.

3. As far as the second limb of the prayer with reference to I.A.No. 6 of 2024 is concerned, it is the grievance of the workman that after the takeover of



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the new management, a lot of unfair labour practices having been going on.

The Labour Court firstly found that the same travels beyond the scope of the enquiry and secondly, that the Advocate Commissioner cannot be appointed for the purpose of gathering evidence. Therefore, even if the workman thinks that any issue with reference to unfair labour practices is relevant, he has to muster such evidence on his own and tender it before the Labour Court. An Advocate Commissioner cannot be appointed for this said purpose.

4. Accordingly, finding no merits in the prayer made this writ petition, the writ petition stands disposed of. Consequently, connected miscellaneous petition is closed. No costs.

09.12.2024

Neutral Citation: Yes/No
nsl

To
The Management of Tamilnadu Petroproducts Limited,
Manali Express High Way,
Manali, Chennai 600 068.



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D.BHARATHA CHAKRAVARTHY, J.

nsi

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