



W.A(MD)No.1061 of 2018

WEB COPY **BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 10.09.2024

CORAM:

**THE HONOURABLE MR.JUSTICE P.VELMURUGAN
AND
THE HON'BLE MR.JUSTICE K.K.RAMAKRISHNAN**

**W.A(MD)No.1061 of 2018
and
C.M.P.(MD)No.7354 of 2018**

Rane TRW Steering Systems Limited,
Plant 1,
FL Gear Division,
Boothakudi Village,
Viralimalai – 621 316,
Pudukottai District,
Rep. by its Vice President – Operations
K.Sudhakar

... Appellant

versus

1. Rane TRW Steering Systems Limited
Employees Union,
Viralimalai – 621 316
Pudukottai District,
Rep. by its President V.Prakash
2. Viralimalai Rane TRW Steering
Systems Employees Union
(Affiliated to AITUC)
Registration No.272/PDK
Viralimalai – 621 316



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Pudukottai District
Rep. by its President,
N.Balakrishnan

3. Government of Tamil Nadu,
Rep. by its Principal Secretary,
Labour and Employment Department,
Fort St. George,
Chennai – 600 009.

4. The Assistant Commissioner of Labour (Conciliation)
Mannarpuram,
Trichy – 620 020.

5. The Presiding Officer,
Industrial Tribunal,
Chennai – 600 104.

... Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent against the order dated 12.02.2018 passed in W.P.(MD)No.1915 of 2014.

For Appellant : Mr.S.Ravi,
Senior Counsel
for Mr.K.Saravanan

For R1 : Mr.D.Anbarasu
For R2 : M/s.J.Madhu
For R3 and R4 : Mr.D.Sachi Kumar,
Additional Government Pleader
For R5 : Dismissed vide order dated 16.07.2021.



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JUDGMENT

(Judgment of the Court was delivered by **P.VELMURUGAN.,J**)

The appellant herein filed a writ petition in W.P.(MD)No.19150 of 2014, seeking to quash G.O.(D)No.377, dated 21.08.2014 issued by the 3rd respondent herein, namely, the Principal Secretary, Labour and Employment Department, Fort St. George, Chennai. The learned Single Judge, by order dated 12.02.2018, dismissed the writ petition. Aggrieved over the same, the appellant herein has filed the present intra court Appeal.

2. The appellant herein is the Management of Rane TRW Steering Systems Limited, Viralimalai, Pudukottai District. The 2nd respondent herein is a registered Trade Union. Based on the charters of demands, a settlement has been arrived at between the appellant and the 2nd respondent herein. The 1st respondent is not a registered Trade Union and has no *locus standi* to raise any industrial dispute as contemplated under the Industrial Dispute Act. The appellant has also concluded the settlement under Section 18(1) of the Industrial Dispute Act, 1947, with the 2nd respondent on 07.09.2013 and the members of the



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2nd respondent have also accepted the same. While so, the 1st respondent, which is not a registered Trade Union and not recognized as a Trade Union by the appellant, has raised an industrial dispute under Section 2(k) of the Industrial Dispute Act on 26.03.2013. Therefore, the appellant Management declined to participate in the conciliation proceedings before the 4th respondent. Subsequently, the 4th respondent sent a failure report on 12.07.2013 and the same was forwarded to the Government, which made a reference order, vide G.O. (D)No.377, Labour and Employment Department, dated 21.08.2014 for adjudication by the Industrial Tribunal. Upon receipt of the same, the Industrial Tribunal had taken the reference on file in I.D.No.34 of 2014 and issued a notice to the appellant. Challenging the same, the appellant has filed a writ petition in W.P.(MD)No.19150 of 2014 before the Writ Court. After hearing both sides, the learned Single Judge, by order dated 12.02.2018, dismissed the writ petition, holding that the first respondent herein has raised a dispute stating that they are the actual representatives of the workers, the second respondent is a mere stooge at the hands of the petitioner Management, the Government obviously cannot decide the matter and therefore, it has rightly referred the matter for adjudication. Challenging the same, the petitioner has filed this intra Court Appeal.



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3. The learned Senior Counsel appearing for the appellant submits that the second respondent herein is a registered Trade Union under Section 2(e) of the Trade Unions Act, 1926 and has obtained a Certificate of Registration under Section 9 of the said Act. When the name of the second respondent alone has been entered in the register of Trade Unions maintained in Form B under the Tamil Nadu Regulations under the Trade Unions Act and has been allotted the Registration No.272/PDK, it is clear that the first respondent is not a registered Trade Union and falsely attempted to impersonate as a registered Trade Union on the basis of the Certificate of Registration issued to the 2nd respondent. The learned Senior Counsel further submits that the 4th respondent could not have taken cognizance of any industrial dispute raised by the 1st respondent Union and the entire proceedings culminating in the order of reference is completely avoid and is liable to be set aside. The 4th respondent, who is the Conciliation Officer while entering an industrial dispute and before initiating the conciliation proceedings, has to specify himself that the Trade Union, which raises a dispute, is duly registered under the Trade Union Act 1926 and it has representative capacity to espouse the dispute of the employees of the industrial establishment to



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which the dispute relate and the dispute is an Industrial dispute as defined under the Industrial Dispute Act, 1947. The first respondent, on the face of record, is clearly evident that it is not a registered Trade Union, but, on the contrary, has falsely usurped the place of the 2nd respondent. But, the Conciliation Officer failed to consider the same and proceeded with the conciliation and sent the Conciliation Failure Report.

4. The learned Senior Counsel appearing for the appellant further submits that the 3rd respondent, which is the appropriate Government, while evaluating the issue as to whether an industrial dispute has to be referred for adjudication, ought to have applied its mind to the submissions made by the appellant, from which, it is evident that the first respondent has no legal existence in the eye of law and refused the reference of the dispute raised by the 1st respondent. The learned Senior Counsel further submits that the provisions of the Trade Unions Act, 1926, is a self contained code, prescribing the manner of formation of a Trade Union, its registration, the provisions to be contained in the rules of a Trade Union, cancellation of registration, etc. By virtue of the registration, it becomes a body corporate by the name under which it is registered and shall have perpetual



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succession and a common seal, the power to acquire and hold both movables and immovable properties and to contract, and shall by the said name sue and be sued. Only a Trade Union, which is registered under the Trade Unions Act, 1926, will get a right to raise an industrial dispute before the Conciliation Officer under the Industrial Dispute Act, 1947.

5. The learned Senior Counsel further submits that the appellant has entered into a settlement under Section 18(1) of the Industrial Disputes Act 1947 with the 2nd respondent, which is a registered Trade Union and recognized by the appellant and the said settlement is binding on all the members of the 2nd respondent Union. When the 2nd respondent has amicably settled their dispute with the appellant, the 3rd respondent has no authority to refer the dispute for adjudication on the basis of the dispute raised by the 1st respondent, which is the unregistered Trade Union, by using the very same registration number as that of the 2nd respondent. The first respondent has not produced any material to show that it was a registered Trade Union under the Trade Union Act and registration number used by the first respondent is the registration number of the second respondent. There cannot be a case where a trade union registered under the same



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number could enter into a settlement and also another group of workmen, claiming to represent the very same Union, place charter of demand and raise dispute and insist for the dispute to be referred for adjudication. In this case, the Conciliation Officer and the appropriate Government does not act merely a post office, but, on the other hand, has to apply their mind to see whether the body which raises dispute has *locus standi* to do so in accordance with law and then taken decision as to whether a dispute had arisen which requires a reference for adjudication. The reference has been challenged before the learned Single Judge only because of the existence of the settlement, but, on the contrary, the learned Judge completely failed to see that the main challenge in this writ petition to the order of reference is the *locus standi* of the 1st respondent to raise any dispute under the Registration No.272/PDK which is the registration number allotted to the 2nd respondent union. The learned Single Judge has also proceeded on the erroneous basis that the reference to the industrial dispute has been challenged by the appellant that they have entered into a settlement under Section 18(1) of the Industrial Act with the 2nd respondent and hence, no cause of action arose for making of any reference. Therefore, this writ appeal has to be allowed and the failure report filed by the 4th respondent and the reference made by the 3rd



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respondent are liable to be set aside and I.D.No.33 of 2014 pending before the Industrial Tribunal/5th respondent is liable to be quashed. In support of the contention, the learned Senior Counsel has also relied on a Judgment of the Hon'ble Supreme Court in the case of *State of Bombay vs. K.P.Krishnan and others*, reported in *MANU/SC/0199/1960*.

6. The learned counsel for the second respondent submits that the 4th respondent, without any application of mind, sent a notice to the appellant and since the appellant did not appear, the 4th respondent sent a failure report to the 3rd respondent. The 3rd respondent, without any application of mind, simply referred the dispute before the 5th respondent. The 5th respondent also, without any application of mind, had taken the reference on file in I.D.No.33 of 2014. He further submits that the second respondent alone is the registered Trade Union under the Trade Union Act and it is the recognized union in the appellant management and all the members of the second respondent also accepted the terms of settlement. He further submits that earlier, a batch of writ petitions were filed before this Court in W.P.Nos.17217, 17220, 17221, 17225 and 17612 of 2020. Pending these writ petitions, the parties to the writ petitions have filed a



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Joint Memo of Compromise stating that the Management has agreed to settle various amount of compensation to the workmen. In view of the settlement arrived at between the appellant and the second respondent, all the writ petitions were closed.

7. The learned counsel for the first respondent submits that the second respondent, in collusion with the appellant, acted against the interest of the workers and therefore, the first respondent Union raised a dispute before the 4th respondent, namely, the Conciliation Officer and thereafter, the 4th respondent herein sent a summon to the appellant. Since the appellant failed to come forward for settlement, the 4th respondent sent a failure report to the 3rd respondent. The 3rd respondent, being the appropriate Government, referred the dispute before the Industrial Tribunal. The 4th respondent took the reference in I.D.No.33 of 2014 and if the appellant wanted to say anything, they ought to have appeared before the 4th respondent and made their submissions. He further submits that a notice was issued to the appellant by the Industrial Tribunal and without any materials, the Industrial Tribunal cannot decide the matter. But, the appellant, without facing the industrial dispute, approached the Writ Court. The Writ Court, after



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considering the facts and circumstances of the case, has rightly dismissed the writ petition, holding that all the disputes can be decided in I.D.No.33 of 2014 before the Industrial Tribunal. Therefore, there is no merit in the writ appeal and the same is liable to be dismissed.

8. The learned counsel appearing for the 3rd and 4th respondent submits that as per the Industrial Disputes Act, any person, group of persons of Registered Trade Union can raise the disputes before the appropriate authority. The appropriate authority will follow the provisions of the Industrial Disputes Act and the rules made thereunder this Act. During the course of negotiations between the Management and the union or worker, a bi-party settlement under Section 18(1) of the Industrial Disputes Act is made. The appropriate authority will approve it when it is in compliance of the Act. As per Section 12(3) of the ID Act, if a settlement of the dispute or any of the matter in dispute is arrived at in the course of the conciliation proceedings, the conciliation officer shall send a report thereof to the appropriate Government together with a memorandum of settlement signed by the parties to the dispute. If no such settlement is arrived at in the course of conciliation, after the completion of the investigation, the



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conciliation officer has to submit a failure report setting forth the steps taken by him for ascertaining the facts and circumstances relating to the dispute and for bringing about the settlement thereof together with a full settlement such as facts and circumstances and the reasons on account to which in opinion a settlement would not be arrived at and the government will take decision as to whether it is to be referred for adjudication or to decline it. In this case, the 4th respondent has followed the procedure. Since the appellant did not co-operate for amicable settlement, they sent a failure report before the 4th respondent. The 4th respondent, after applying his mind, referred the matter to the Industrial Tribunal. Now, the matter is pending with the Industrial Tribunal. The 3rd and 4th respondents are nothing to do with this case. Therefore, the appeal has to be dismissed as against these respondents.

9. Heard both sides and perused the materials available on record.

10. The appellant herein is the Management of Rane TRW Steering Systems Limited, Viralimalai, Pudukottai District. The second respondent is a registered Trade Union, having majority members of the appellant industry. The



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second respondent has referred a copy of the registration certificate having Registration No.272/PDK. But, the first respondent has not produced any material to show that it is a registered Trade Union. However, the first respondent Union raised a dispute before the 4th respondent, by referring the same registration number of the second respondent. As rightly pointed out by the learned Senior Counsel for the appellant, there cannot be one registration number for two registered trade unions.

11. It is also pointed out by the learned Senior Counsel appearing for the appellant that a registered Trade Union alone can negotiate with the Management for settlement of their union workers. The learned Senior Counsel has produced a copy of the settlement arrived at between the appellant and the second respondent under Section 18(1) of the Industrial Disputes Act and also produced a copy of the order passed by this Court in W.P.No.17217, 17220, 17221, 17225 and 17612 of 2020. On perusal of the same, it shows that a settlement has been arrived at between the Management and the second respondent, which is the registered Trade Union, based on which, the said writ petitions were closed. But, so far, the first respondent has not challenged the same.



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12. Admittedly, in this case, the first respondent is not a registered trade union. The first respondent has not established that it is a registered trade union. But, the 4th respondent, without applying its mind and without ascertaining as to whether the first respondent has got any *locus standi* to raise an industrial dispute and whether the dispute is existing or not, issued a notice to the appellant. Though the appellant sent a reply that there was an amicable settlement between the appellant and the second respondent herein, which is the registered Trade Union, the 4th respondent, without applying its mind, sent a failure report to the 3rd respondent, who in turn referred the dispute to the Industrial Tribunal. Challenging the same, the appellant has filed the present writ petition before the Writ Court. The learned Single Judge also, without considering the fact that a settlement was already arrived at between the appellant and the second respondent, which is the recognized registered Trade Union, dismissed the writ petition.

13. The Hon'ble Supreme Court, in the case of ***National Engineering Industries Ltd., vs. State of Rajasthan and others***, reported in ***2000 (1) SCC 371***,



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held that pursuant to identical charters of demands made by several unions, the Management and a representative union reached a conciliation settlement to be operative immediately after the expiry of the previous settlement and the new settlement became binding on all workmen of the establishment including those belonging to a dissenting minority union.

14. Further, it is a settled proposition of law that any settlement can be made between the Management and the registered Trade Union. In this case, an amicable settlement has already been arrived at between the appellant and the second respondent, which is the registered Trade Union. In this regard, a copy of the settlement is also produced before this Court. Therefore, there is no necessity for referring the dispute to the Industrial Tribunal.

15. Since the settlement has already been arrived at between the appellant and the second respondent, which is the recognized and registered Trade Union, the observations made by the learned Single Judge warrants interference. Accordingly, this Writ Appeal is allowed by setting aside the order dated 12.02.2018 passed by the learned Single Judge in W.P.(MD)No.1915 of 2014 is



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set aside. Consequently, the failure report sent by the 4th respondent is set aside and the consequential reference made by the 3rd respondent is also set aside. No costs. Consequently, connected miscellaneous petition is closed.

[P.V.,J.] [K.K.R.K.,J.]
10.09.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

1. The Principal Secretary,
Labour and Employment Department,
Fort St. George,
Chennai – 600 009.
2. The Assistant Commissioner of Labour (Conciliation)
Mannarpuram,
Trichy – 620 020.
3. The Presiding Officer,
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Judgment made in
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