



WEB COPY



W.P. No.11066 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2025

CORAM

THE HONOURABLE Mr. JUSTICE P.DHANABAL

W.P. No.11066 of 2022

United Union of Hyundai Employees,
represented by its General Secretary
No.57, 1st Floor, Chennai Bangalore Highway,
Irungattukottai, Pennalur Post,
Sriperumbudur Taluk,
Kanchipuram District - 602 117. .. Petitioner

vs.

1. The State of Tamil Nadu,
represented by its Secretary,
Labour & Employment (A2) Department,
Fort St. George, Chennai-600 009.

2. The Joint Commissioner of Labour - 2,
DMS Campus, Chennai - 600 006.

3. The Management,
M/s. Hyundai Motors India Limited,
Irungattukottai, Pennalur Post,
Sriperumbudur Taluk,
Kanchipuram District - 602 117. .. Respondents

PRAYER: The Writ petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorarified Mandamus calling for the records of the 1st respondent in connection with the impugned order dated



W.P. No.11066 of 2022

29.01.2021 in G.O. (D) No.40 and quash the same and direct the 1st respondent to refer the demands by the workers for adjudication by the Labour Court.

For Petitioner : Mr. S. Ravi

For Respondent : Mr. L.S.M. Hasan Fizal,
Additional Government Pleader
[for R1 & R2]

Mr. R. Jayaprakash [for R3]

ORDER

This Writ petition has been filed by the petitioner to quash the order passed by the 1st respondent in the impugned order dated 29.01.2021 in G.O.(D) No.40 and to direct the 1st respondent to refer the demands made by the workers for adjudication by the Labour Court.

2. The learned counsel appearing for the petitioner would submit that the petitioner Union is a Registered Union under Trade Union Act and it is the recognized Union of the 3rd respondent Management. The 3rd respondent management deliberately installed the robot in the production shop without discussion with the Union. Therefore, the Union objected for the said installation of robot in the production department and made several representations to the Management requesting not to install robot in the



W.P. No.11066 of 2022

WEB COPY

production department. But the Management failed to consider the objections raised by the Union. Therefore, the petitioner Union raised a dispute under Section 2K of the Industrial Dispute Act before the 2nd respondent. The 2nd respondent conciliated the matter and the amicable settlement was not arrived and hence he submitted his failure report to the Government. The 1st respondent Secretary to the Government of Tamil Nadu, Labour and Employment Department, without applying his mind over the existence of the dispute, declined to make reference to the Labour Court for adjudication on the ground that the Management had not retrenched any workman from the date of commencement of the above company and there was a settlement under Section 18(1) of the Industrial Disputes Act entered between the Union and the Management on 25.03.2019. The above said refusal to refer the matter for adjudication is against law and the Government has no Authority to adjudicate the dispute. It is the duty of the Government to refer the matter to the Labour Court for adjudication. But in the case on hand, simply the matter was not referred to the Labour Court for adjudication. The reasons for refusing to refer the matter for adjudication by the 1st respondent is not at all sustainable and the Government exceeds its limit. Therefore, the 1st respondent has committed a grave error in declining to refer the matter to the

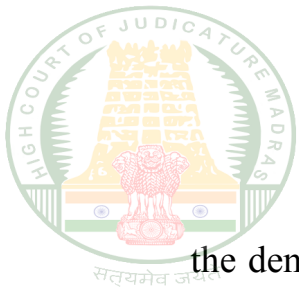


W.P. No.11066 of 2022

adjudicating Authority. Therefore, the order passed by the 1st respondent is liable to be quashed.

3. The learned Additional Government Pleader appearing for the 1st and 2nd respondents would submit that the petitioner Union raised charter of demands dated 30.03.2015 and the same were covered by the Settlement under Section 18(1) of the Industrial Disputes Act dated 17.02.2016. Subsequent charter of demands were raised on 30.03.2018 and the same were covered under Settlement under Section 18(1) of the Act dated 25.03.2019. The Government has to decide whether any industrial dispute exists or apprehended for adjudication. Since the demands of the petitioner Union were already covered under Settlement, it is not necessary to refer the matter for adjudication. Therefore, the 1st respondent passed a reasoned order and the present Writ petition is liable to be dismissed.

4. The learned counsel appearing for the 3rd respondent Management would submit that the petitioner Union made demands not to install robot in the production department. The silent retrenchment of the employees referred in the demands is unknown to law and there is no retrenchment as alleged in



W.P. No.11066 of 2022

WEB COPY

the demands. As far as the installation of robot is concerned, the matter was already covered in the Settlement dated 17.02.2016. The demands were made prior to the settlement. Since the settlement was arrived after these demands and since all the demands were covered under the settlement, there is no necessity to refer the matter for adjudication. The Government Authority after considering the settlements arrived between the parties under Section 18(1) of the Industrial Disputes Act, dated 17.02.2016 and 25.03.2019, declined to refer the matter for adjudication, since all the demands were covered under the said settlement. Therefore, the Government, by exercising the power under Section 10 of Industrial Disputes Act, correctly declined to refer the matter for adjudication, since there is no any industrial dispute exists or apprehended. Therefore, the order passed by the 1st respondent is in order and the present Writ petition is liable to be dismissed.

5. Heard both sides and perused the entire materials available on record.

6. In this case, the petitioner Union raised charter of demands dated 30.03.2015 and 30.03.2018. The main demand raised by the petitioner Union

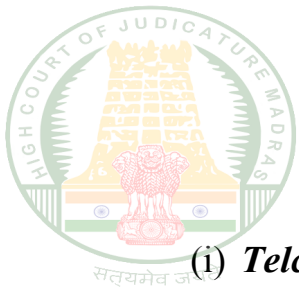


W.P. No.11066 of 2022

WEB COPY

is that the Management has installed the Robot machine in the production departments and is ready to remove the employees and adopted silent retrenchment . The said demands were referred to the 2nd respondent and he also conciliated, but no settlement was arrived at under Section 12 of the Industrial Disputes Act. Thereafter, the Government passed an order on 19.01.2021 that no particulars about the retrenchment of the employees and as per the Settlements under Section 18(1) of the Industrial Disputes Act dated 17.02.2016 and 25.03.2019, all the demands were settled prior to the date of settlement. Therefore, the above said act of the 1st respondent will not amount to adjudication and they entered into settlement after the demands raised by the petitioner Union. That is, the date of demands are 30.03.2015 and 30.03.2018, failure report of conciliation is dated 23.12.2019 and the settlements under Section 18(1) of the Industrial Dispute Act are dated 17.02.2016 and 25.03.2019. Therefore, the Government decided that there is no any industrial dispute exists or apprehended and thereby, correctly declined to refer the matter for adjudication before the Labour Court.

7. The learned counsel appearing for the petitioner has relied upn the following judgments:-



W.P. No.11066 of 2022

WEB COPY

(i) Telco Convoy Drivers Mazdoor Sangh and another vs. State of Bihar and others in Civil Appeal No.2534 of 1989 - Supreme Court of India.

(ii) Kishor Mahadeo Kamble vs. Union of India and another in W.P. No.2386 of 2002 - High Court of Bombay.

(iii) The Management, Bharat Petroleum Corporation Limited vs. Bharat Petroleum Workers Union and others in W.A. (MD) No.414 of 2012 - Madurai Bench of Madras High Court.

(iv) Workmen of Syndicate Bank, Madras and Government of India and another in C.A. No.4377 of 1984 - Supreme Court of India.

8. On a careful perusal of the above said judgments, it is clear that while exercising the power under Section 10(1) of the Industrial Disputes Act, the function of the Government is an administrative function, and it cannot delve into the merits of the dispute and take upon itself the determination of the *lis*, which would certainly be in excess of the power conferred on it.

9. The learned counsel appearing for the respondent has relied upon the following judgments:-

(i) State of Bombay vs. K.P. Krishnan and Ors reported in AIR 1960 SC



W.P. No.11066 of 2022

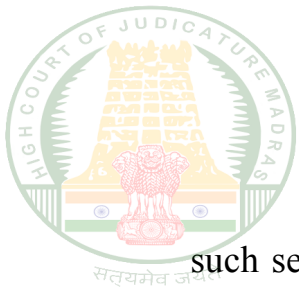
1223.

WEB COPY

(ii) Binny Ltd., vs. Government of Tamil Nadu and Ors reported in 1989 (2)

LLNS 515 (Mad).

10. On a careful perusal of the above said judgments, it is clear that it is open to the Government while considering the question of expediency to enquire whether the dispute raises a claim which is very stale, or which is opposed to the provisions of the Act, or is inconsistent with any agreement between the parties, and if the Government comes to the conclusion that the dispute suffers from infirmities of this character, it may refuse to make the reference. Also it is clear that the bar to the reference of a dispute covered by a settlement is the direct result of the legal position that when a dispute between the workers and the employer is concluded by a settlement which binds them, no industrial dispute relating to any item covered by the settlement can come into existence or can be apprehended, which can be referred by the Government under Section 10 of the Act. It is only when a dispute exists or is apprehended that the question arises whether a reference should or should not be made. If during the period of operation of settlements fresh disputes could be raised with respect to the subject matters covered by



W.P. No.11066 of 2022

WEB COPY

such settlements, the purpose of the Act to achieve peaceful and harmonious industrial relations by settlements will be completely foiled. The object of Sections 18 and 19 of the Act is to achieve industrial peace with regard to the subject-matter of the settlements for the duration of the settlement / agreement. Obviously, therefore, if there is to be industrial peace for the period contemplated, then the parties bound by a settlement cannot be allowed to raise an industrial dispute with regard to the matters covered by that settlement.

11. In the case on hand also, the dispute is covered under settlement and after raising the demands on 30.03.2015 and 30.03.2018, the settlement was arrived on 17.02.2016 and 25.03.2019 respectively. Therefore, the Government has passed a reasoned order and the same cannot be interfered with.

12. In view of the above discussions, this Court is of the opinion that the Writ petition has no merits and deserves to be dismissed.

13. Accordingly, this Writ petition is dismissed. There shall be no



W.P. No.11066 of 2022

order as to costs.

WEB COPY

01.07.2025

[2/2]

Index : Yes/No

Speaking order/non-speaking order
mjs

To

1. The State of Tamil Nadu,
represented by its Secretary,
Labour & Employment (A2) Department,
Fort St. George, Chennai-600 009.

2. The Joint Commissioner of Labour - 2,
DMS Campus, Chennai - 600 006.

3. The Management,
M/s. Hyundai Motors India Limited,
Irungattukottai, Pennalur Post,
Sriperumbudur Taluk,
Kanchipuram District - 602 117.

P. DHANABAL, J.,

10/11



WEB COPY



W.P. No.11066 of 2022

mjs

W.P. No.11066 of 2022

**01.07.2025
[2/2]**