



W.P.(MD) No.21157 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.03.2025

CORAM

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD) No.21157 of 2019

and

W.M.P.(MD) No.17789 of 2019

The Management of Indian Potash Limited,
Ambal Building 2nd Floor,
727, Anna Salai, Chennai-600 006,
Rep., by its Managing Director.

... Petitioner

Vs.

1.The Deputy Commissioner of Labour
(Appellate Authority under the Tamil Nadu
Shops and Establishments Act, 1947),
Tiruchirapalli.

2.K.Valluvan

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the first respondent in T.N.S.E. I.A.No.3/2017 in T.N.S.E. Case No.1/2016 and quash its order dated 29.04.2019.

For Petitioner

:

Mr.Anand Gopalan
for M/s.T.S.Gopalan and Co.



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For Respondents : Mr.A.Baskaran
Additional Govt. Pleader – for R1
: Mr.Rajakarthikeyan – for R2

ORDER

The brief facts that are relevant for the disposal of this writ petition are as under:

While Respondent No.2 was working in the petitioner-Company at Pudukottai, he was transferred to Palghat in Kerala State through proceedings dated 19.06.2015, as a measure of punishment. However, Respondent No.2 has not reported to duty at Palghat and continued on leave. In view of the same, the petitioner initiated disciplinary action against the Respondent No.2 on the alleged misconduct of not honouring the transfer order dated 19.06.2015. Finally, the said proceeding concluded resulting in terminating the services of the Respondent No.2 by order dated 09.12.2015 issued by the Managing Director of the petitioner-Company situated at Chennai. The said order of termination was served on the petitioner at Coimbatore. Aggrieved by the said order dated 09.12.2015, the Respondent No.2 filed an appeal before the Respondent No.1 under Section 41 of the Tamil Nadu Shops and



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Establishments Act, 1947 and the same was taken on record as TNSE No.1 of 2016. The petitioner herein filed its written answer in the said appeal on 13th May, 2016. Thereafter, proceedings went on in the said appeal and ultimately, when the matter reached the final stage, Respondent No.2 herein has filed proof affidavit and other documents., the petitioner herein filed I.A.No.3 of 2017 to decide the jurisdiction of Respondent No.1 to entertain the said appeal.

2. It is the contention of the petitioner that the Respondent No.2 herein was transferred to Palghad in Kerala State and disciplinary action was initiated against him, while he was posted at Palghad in Kerala State and therefore, the authorities under the Tamil Nadu Shops and Establishments Act have no jurisdiction to entertain the appeal against the termination order dated 09.12.2015.

3. The said application was refused to be entertained by the Respondent No.1 on the ground that the proceedings before him are at the advance stage and the Respondent No.2 has already filed his proof affidavit



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and accordingly, the Respondent No.1 refused to entertain the said application by passing an order dated 29.04.2019. It is aggrieved by the said order, the petitioner filed the present writ petition.

4. There is no dispute on the factual aspects. Admittedly, the last place of working of Respondent No.2 in the petitioner-Company is at Pudukottai. Though the Respondent No.2 was transferred to the Kerala State, the petitioner never joined in the said post. Admittedly, disciplinary proceedings that were initiated against the Respondent No.2 is by the Managing Director of the petitioner-Company located at Chennai and the show cause notice as well as the order of termination etc., were also served on the petitioner while he was at Coimbatore or Pudukottai. The contention of the petitioner that the last working place of the Respondent No.2 is Kerala is hypertechnical. Admittedly, Respondent No.2 never joined in the transferred place and therefore, the disciplinary proceedings were initiated in the State of Tamil Nadu and the said proceedings also concluded in the State of Tamil Nadu. The order of termination also passed by the Managing Director of the petitioner-Company located at Chennai and the same was



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served on the Respondent No.2 at Pudukottai. Respondent No.2 never gone to the Kerala state pursuant to the transfer order issued to him and he continued to be in the State of Tamil Nadu.

5. Admittedly, the order of termination was passed by the petitioner-Company in Tamil Nadu and served at Respondent No.2 at Tamil Nadu. Therefore, the entire cause of action for filing an appeal under Section 41 of the Tamil Nadu Shops and Establishments Act is only in the State of Tamil Nadu and no part of cause of action also arose in the State of Kerala and the petitioner is fully conscious of these facts, but has chosen to file an interlocutory application to decide the said issue as a preliminary issue. Though Respondent No.1 refused to entertain the same as a preliminary issue and was inclined to deal with the said issue while disposing of the main appeal, the petitioner herein with undue haste approached this Court by filing the present writ petition and obtained stay of all further proceedings in the appeal filed by Respondent No.2 pending before Respondent No.1. It is not understood as to what prejudice would be caused to the petitioner, if the said issue was decided along with the main appeal.



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6. In the light of the above, this Court though not in agreement with the impugned order passed by Respondent No.1 refusing to decide the issue of jurisdiction as a preliminary issue, having considered the matter on merits and in the light of the discussion made hereinabove, is of the considered view that absolutely there is no substance in the preliminary objection raised by the petitioner on the ground of territorial jurisdiction.

7. Accordingly, this Writ Petition as well as the interlocutory application in I.A.No.3 of 2017 filed in T.N.S.E.No.1 of 2016 filed by the petitioner herein are dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

20.03.2025

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

ABR



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To

The Deputy Commissioner of Labour
(Appellate Authority under the Tamil Nadu
Shops and Establishments Act, 1947),
Tiruchirapalli.



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MUMMINENI SUDHEER KUMAR, J.

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