

ORDERS ON I.A.NO.7 and 8

The First Party has filed applications under Sec.11 of I.D.Act r/w 151 of CPC calling for production of documents i.e., a) Seniority list announced by the second party in the month of August 2020, b) Notice of retrenchment submitted by the second party to the department of labour, with the list of 42 workmen, in the month of August 2020, from the second party management.

2. In the affidavit annexed to the applications it is contended that the second party management had caused illegal retrenchment. The seniority list announced by the management of the second party was also not as per the provisions of law and further the management had caused illegal retrenchment of 42 workmen without following the provisions of ID Act. When the matter on illegal lay-off was pending as an industrial dispute before the concerned conciliation officer, the second party had displayed at the gate of the factory a so called seniority list under rule 78 of Industrial disputes (Karnataka Rules), contemplating to unfairly and illegally terminate the services of many workmen with ulterior motives. That the second party had sent the list of seniority to the first party union by post which reached the hands of the union on 9th of August 2020. The first party union had sent the objection on the list to the second party on 12th of August 2020. The first party union also raised a dispute before then Assistant Labour Commissioner and the Conciliation Officer, and raised the objection by a

representation dated.10.08.2020. The said authority was pleased to serve notice for conciliation to the second party on 13.08.2020 for a conciliation meeting on 17.08.2020. But the second party with utter disregard to the pendency of the conciliation proceedings, illegally terminated the services of 42 workmen by order of termination dated.17.08.2020. This termination caused to 42 workmen was illegal, utter violations of the provisions of the ID Act 1947, including sec.93 of ID Act, 1947. During the cross examination these facts were also admitted by the second party witness. But while perusing the documents submitted by the parties it is found that the seniority list and the notice of retrenchment submitted to the department of labour containing the reasons for retrenchment along with the list of 42 workmen are not produced. Both these facts were pleaded by the first party and was also part of cross examination of the second party. The second party witness was evasive with answers to many of the suggestions. The first party tried to find out these documents but could not get it. The said documents must be in the custody of the second party. These documents are crucial to establish the illegality committed by the second party. The procurement of these documents from the department of labour would take its own time. Hence, it is equitable to direct the second party to produce these two documents for effective adjudication of the dispute. Hence, prays to allow the applications.

3. On the other hand the second party has filed common objections to the IA No.7 and 8 filed by the first party contending that the applications are frivolous and have been filed for the purpose of creating a sense of ambiguity and confusion. The applications have been filed at the final stage of the process of adjudication, when the matter was posted for addressing arguments. The applications are filed only with a malafide intention of covering up lacuna in the evidence of WW-1 to 3 and drag on the proceedings. That first party has sought certain documents from the second party which have no nexus to the case on hand whatsoever. It is further submitted that the present reference is pertaining to alleged refusal of employment and not on retrenchment. It is further submitted that, a reference to the Hon'ble Industrial Tribunal was done by the Government on 25.02.2022, regarding validity of retrenchment of 42 workers w.e.f.19.08.2020. During pendency of the said reference, the Government referred this matter to Hon'ble Labour Court on 20.05.2022, calling upon the management to justify the action of refusal of employment. The seniority list of the employees is required only to justify the action of retrenchment. The Government has referred this issue i.e., retrenchment to the Hon'ble Industrial Tribunal as the matter fell under the III Schedule. The said issue cannot be adjudicated by the Hon'ble Labour Court. Hence, the question of producing the document i.e., seniority list in this matter does not arise. Similarly,

producing the retrenchment notice sent to the Labour Department also does not arise. Further, it is submitted that, the reference pertaining to retrenchment was sent by the appropriate Government to the Hon'ble Industrial Tribunal, Mysuru for the purpose of adjudication. The matter was taken on record as Ref.No.14/2022 and on 14.03.2025 the Hon'ble Tribunal has passed an order rejecting the reference. The first party seems to be have been aggrieved by the said order, as resorted to different tactics to bring the issue of retrenchment under the present reference before this court. It can be clearly observed from the claim statement and evidence affidavit of first party that, the first party has based its entire claim pertaining to refusal employment and now the first party has come up with the said IAs claiming to have contended the issue of retrenchment. The first party union cannot blow hot and cold in the same breath as it pleases and cannot expect this Court and second party to be deceived from actions of the first party with malafide intentions to bring an issue already closed. The present reference remains silent as to the particular date as to when the alleged refusal of employment took place and the first party seems to be making feeble attempts to take advantage of such ambiguity in order to cover up its lapses. The first party seems to be making disparate attempts before this Court by opting such untenable methods in order to salvage what is left off the retrenchment issue. Hence, prays to reject the applications.

4. Heard both sides on the applications.

5. The following points do arise for consideration;

1. Whether the first party have made out reasonable grounds to issue direction to the second party to cause production of the documents sought for in the applications?

2. What order?

6. My answer on the above points are as under;

Point No.1: **Negative.**

Point No.2: As per the final order
for the following

REASONS

7. Point No.1: I have heard the learned counsels for the first party and second party. On going through the pleadings it reveals that the present dispute has been referred by the Government for adjudication of the issue of refusal of employment involved in the case. It is the case of the first party workmen that, they are the members of the first party union and they were illegally terminated from the service. Even though there are enough work at the second party factory they continuously refusing employment to the first party

workmen. From a careful reading of the entire claim statement averments it reveals that, the first party workmen have challenged their alleged refusal of employment by the second party management as illegal, unjust, unlawful and arbitrary. On the other hand, the main contention of the second party management is that, the present reference and claim statement is not maintainable in view of layoff and retrenchment dispute pending before Industrial Tribunal, Mysuru and the second party management has retrenched 42 workmen on 17.08.2020 by complying the provisions of ID Act. Thus, the second party has specifically contended that, the dispute is not maintainable before this Court. Based on the contentions of both parties this court has also framed issues by casting burden on both the parties to establish their contentions in accordance with the pleadings and averments made in the claim statement as well as counter statement respectively.

8. Admittedly, the dispute is pertaining to refusal of employment of first party workmen. As per the reference made by the Government the only question which needs a proper adjudication of this court is that whether the second party management has caused illegal refusal of employment of first party 42 workmen. It is well known fact that it is not open to the tribunal to travel materially beyond the terms of reference for it is well settled that the terms of reference determine

the scope of its power and jurisdiction from case to case. In other words, this power cannot be exercised by the tribunal so as to enlarge materially the scope of the reference itself, because basically the jurisdiction of the tribunal to deal with an industrial dispute is derived solely from the order of reference made by the appropriate Government.

9. No doubt it is within the power of the tribunal to make an order for discovery, production and inspection of documents. But at the same time the party seeking for production of documents from the other side, must establish the relevancy of such documents which are sought to be produced. Here it is not in dispute that the issue pertaining to retrenchment of employees has been referred by the Government to the Hon'ble Industrial Tribunal for adjudication. During the course of arguments the learned counsel for the second party management has submitted that the reference sent by the Government pertaining to the issue of retrenchment to the Hon'ble Industrial Tribunal, Mysuru, has been rejected by the Court and after such rejection of the said dispute the first party workmen are trying to brought the proposed documents before this Court. The said fact is not disputed by the first party. It must be noted that in the entire affidavit averments attached to the applications at hand, no where it is stated with regard to the relevancy of the proposed document at item No.1

i.e., seniority list announced by the second party in the month of August 2020.

10. During the course of arguments the learned counsel for the first party vehemently submitted that he has got elicited certain admissions in the course of evidence with regard to the proposed document. No doubt, on perusal of evidence of both parties it reveals that many questions have been posed in cross examination with regard to seniority list. But those questions are not particularly related to the proposed document at item No.1 i.e., seniority list announced by the second party in the month of August 2020. However, on total consideration of evidence made available on record what emerges that there is no dispute between parties with regard to preparation of seniority list and retrenchment of 42 workmen which had taken place in accordance with seniority list. Admittedly, the issue regarding retrenchment had been raised before the Hon'ble Industrial Tribunal and the same has been decided in the said Court. Therefore, as per the evidence brought on record the said document might be relevant in the retrenchment matter which was pending at Hon'ble Industrial Tribunal Court, Mysuru. But in the present case, as already noticed above, the issue which is pending for adjudication is as to refusal of employment. Thus, it is not made to understand in what way the said document is relevant for adjudication of the issue involved in the

present case. In other words, even if the said document is produced, in what way it is useful in deciding the issues involved in the above matter, has not been made out at all.

11. As regards the document at Item No.2 i.e., notice of retrenchment submitted by the second party to the department of labour, with the list of 42 workmen, in the month of August 2020, which is sought to be summoned from the second party is concerned, it is to be noted that admittedly the said document is pertaining to the matter of retrenchment. As already discussed above, the issue pertaining to retrenchment, which finds place in the III Schedule of ID Act, has already been adjudicated between parties by the competent Court. Therefore viewed from any angle, the relevancy of the said document in adjudication of the issues involved in the present dispute, has not been made out by the first parties. Thus, when the question relating to relevancy of the said documents which are sought to be produced by the first party is not at all made out or demonstrated before the Court, and the said documents do not play any role in determining the issues involved in the case, the directions to produce such documents before the Court would be a futile attempt. Therefore, the applicant/first parties have not made out any reasons to issue directions as sought for to cause production of the proposed documents. It is well settled that, mere calling for issue of directions

for production of documents in the absence of proof of relevancy of such documents, is not sufficient. Unless and until the relevancy of documents sought for is shown direction for production of such documents becomes futile and no purpose would be served. The first parties have not shown any reasons as to how the documents sought for are vital for adjudication of the issues involved in the dispute. In view of the above reasons, the first party have failed to made out reasonable and justifiable grounds for issue of direction for production of documents sought for in the application. Hence, in view of the said reasons, I answer the point No.1 above in the **Negative**.

12. **Point No.2:** For the above mentioned reasons on point no.1, I proceed to pass the following;

ORDER

I.A.No.7 and 8 filed u/s 11 of I.D.Act,1947 r/w Sec.151 of CPC seeking for issue of direction to the second party to produce the documents sought for, is hereby rejected.

No order as to cost.

Call on for arguments by 05.11.2025.

sd/-

**Presiding officer,
Labour Court, Mysuru.**