

## **ORDER ON I.A.NO.1**

The second party has filed the present application u/s 11 of Industrial Disputes Act, 1947 r/w sec.151 of I.P.C for seeking alteration and recast of issue no.3 dated:06.01.2023.

2. In the affidavit annexed to the application it is contended that the first party 44 employees have raised dispute of retrenchment. They are the employees of Vinyas Innovative Technologies Pvt., Ltd., Thirupathi of Andra Pradesh. The reference sent by Government of Karnataka to this court is not maintainable due to lack of territorial jurisdiction. The first party workers have knowingly well about the jurisdiction at Labour Department, Thirupathi of Andra Pradesh were raised before DLC, Bangalore. The second party have raised objections with regard to jurisdiction of the conciliation officer at Karnataka, but despite the reference has been made. Therefore this court is not having jurisdiction to adjudicate dispute in relating to first party workman. The first party have approaches the concerned department and raised dispute. Therefore it is burden on the first party workman to prove the territorial jurisdiction of this court for adjudicate the dispute.

3. The second party has appeared and filed counter statement by raising question of territorial jurisdiction of this court to adjudicate the dispute. The court was framed issues on 06.01.2023 by casting issue No.3 relating to territorial jurisdiction of the court, but burden of

proof put on second party. Therefore the said issue has to recast by putting burden on proof on first party. Accordingly prayed for allow the application.

4. The first party workman have not filed written objections to the applications, but the learned counsel of first party has submits oral objections. It is submitted that in the counter statement the second party has taken contention of jurisdiction of this court. Therefore it is burden on the second party to prove its contention. Thus the issue framed by the court is cannot alter or recast. Accordingly prayed for reject the application.

5. I have heard both the learned counsel appearing for the first party and second party. By careful perusal of point of reference, claim statement of first party and counter statement of second party, it is to be seen that as per the dispute raised by the first party with regard to refusal of employment the Government of Karnataka has referred the dispute before this court for adjudication. In pursuance of notice of this court both the parties have appeared and filed their pleadings. In the claim statement it is contended by first party that they are the workman of second party establishment and they were illegally transferred from Mysuru Unit to Thirupathi Unit. Thereafter the second party has illegally refused and terminated the first party from service. Accordingly the first party have raised dispute before the learned DLC,

Bangalore for adjudication of dispute by way of conciliation. The said conciliation was ended in failure report. Accordingly the Government has sent present reference before the court. Per contra the second party has filed objections and denied the territorial jurisdiction of this court to adjudicate the present dispute of reference. Based on the said pleadings this court was framed issues on 06.01.2023. The issue No.3 framed in relating to territorial jurisdiction of this court by putting burden on the second party to prove its contention as taken in the counter statement. The issue no.3 framed by this court is reads as thus;

“Whether the second party proves that this court has got territorial jurisdiction to adjudicate the present Reference as contended in counter statement?”

6. In the counter statement the second party has not admitted the territorial jurisdiction of this court to adjudicate the dispute raised by the first party but it has taken denial contention. Therefore it appears the above mentioned issue framed by wrongly putting burden on second party to establish the territorial jurisdiction. The said issue has been framed by wrongly instead putting burden on the first party. The first party who approaches the court for seeking relief. Therefore as per the settled principle of law it is duty casted on the first party to show

the territorial jurisdiction of the court to adjudicate the dispute. The issue relating to point of jurisdiction is cannot be framed based on the defense contention taken in the counter statement by the second party. Therefore the first party has to establish the territorial jurisdiction of the court, since it is his duty to approach proper jurisdictional court for redressel of remedy. Therefore the above mentioned issue framed is wrongly without considering the subject matter and dispute of the present case. Thus it required to modify or reframe the said issue. If the said issue is altered and framed putting burden on the first party, then no hardship are whatsoever is causing to the first party. It is settled principle of law that without proper jurisdiction of the court the dispute cannot be adjudicated. Thus the first party has to initially establish the territorial jurisdiction of the court accordingly, the issue shall be framed putting burden on first party to establish jurisdiction. At any point of time the court can alter and reframe the issue. Hence I am of opinion that the second party has made out reasonable and justifiable grounds for reframe the issue no.3. Accordingly I proceed to pass the following;

**ORDER**

I.A.No.1 Is hereby allowed.

Issue no.3 is recasted.

No order as to cost.

Sd/-

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