

BEFORE THE LABOUR COURT, TIRUCHIRAPPALLI

Present: Thiru. Y. Gladstone Blessed Tagore, B.Sc., LL.B.,
Presiding Officer,
Labour Court, Tiruchirappalli.

Monday, the 1st day of March 2021

Interlocutory Application. No. 1 / 2021

in

Industrial Dispute No. 25 / 2018

General Secretary,
TamilNadu State Transport,
Corporation Workers AITUC Union,
Reg. No. 606 TRY,
Tiruchirappalli.

... Petitioner / Union

/Vs/

The Management,
Tamilnadu State Transport Corporation
(Kumbakonam) Limited,
Tiruchy Region, Periamilaguparai,
Tiruchirappalli – 607 001.

... Respondent / Management

This petition coming on 25.02.2021 before me, for final hearing, in the presence of Advocate Thiru. N. Balakrishnan for the petitioner/union and of Advocate Thiru. I. Anaiyappan, for the respondent/management and hearing the arguments of both sides and considering the entire materials and having stood over till this day for consideration, this court today delivers the following :-

ORDER

This Interlocutory Application was filed by the union, on behalf of the worker Thiru.V. Nagarajan, to dismiss the reference, made for his dispute alone.

Gist of the averments contained in the petition :-

2. Before filing the statement of claim, the member, Thiru.V. Nagarajan requested the union, not to challenge the punishment imposed upon him. This was mentioned in the statement of claim also. The said V. Nagarajan applied for voluntary retirement.

Since the industrial dispute is pending, his request for voluntary retirement was not accepted. Therefore, the reference as against V. Nagarajan is to be dismissed.

Gist of the averments contained in the counter :-

3. Since, this industrial dispute was referred by the Government of Tamilnadu, the petitioner has to make an application only to the Government and not before this court. Since, the Government felt that there is an industrial dispute between the management and the aggrieved person, the Government referred this dispute to this court for adjudication. This court does not have any jurisdiction to entertain this application.

4. Can the reference made by the union, only in respect of the worker V. Nagarajan be dismissed, is the point for consideration.

5. The arguments advanced by both sides were heard.

6. This petition is filed, to dismiss only the reference made, in respect of the worker V. Nagarajan. The reference against the petitioner worker V. Nagarajan is :-

"வி.நாகராஜன், ஓட்டுநருக்கு ரூ.50/- அபராதம் விதித்து நிர்வாகம் பிறப்பித்த 13.11.2003 நாளிட்ட உத்தரவை ரத்து செய்ய வேண்டும் என்ற தொழிற்சங்கத்தின் கோரிக்கை நியாயமானதுதானா?"

The reference regarding the worker V. Nagarajan, involves a question of imposition of a fine of a sum of Rs.50/- by the respondent management.

7. Along with this petition, 2 affidavits, one by the secretary of the union and the other by the aggrieved workman, were filed. In the statement of claim, in the 7th paragraph it is mentioned that :-

"The member Mr.V.Nagaraj has chosen to not pursue further and hence the reference in respect of his impugned punishment may be dropped."

Even before filing the statement of claim, the worker V. Nagarajan requested the union, not to challenge the punishment imposed on him. Endorsing this, the management also in the written statement reiterated that:-

"எனினும் மனுதாரர் தொழிற்சங்கம் அவர்களது மனுவில்
திரு.வி.நாகராஜன் அவர்களது தண்டனை தொடர்பாக
நடவடிக்கை தொடரவில்லை என தெரிவித்துள்ளனர்."

8. Now, the driver V. Nagarajan wants to go on voluntary retirement, on medical ground. Because of the pendency of this industrial dispute, the respondent management is not accepting his request for voluntary retirement. So, the concerned worker V. Nagarajan does not want to continue the industrial dispute raised, on his behalf.

9. According to the respondent, since the Government felt that there was an industrial dispute between the management and the aggrieved person, the Government referred this dispute to this court for adjudication, so except the Government, none else, have power to withdraw the dispute. There might have been an industrial dispute, at the time when the Government made the reference. If the aggrieved workman himself does not want an adjudication, the management cannot insist, that his reference should be kept in file and an adjudication should be made. The petitioner wants to go on Voluntary Retirement, on health ground. The management is not accepting his request on the reason, that his dispute is pending before the Labour Court. Only in this situation, on behalf of the workman, this application was filed. But, in this court, the management is objecting for the dismissal of his dispute. Outside the court, the management says to the workman, that, "We will not, let you, to go on Voluntary Retirement, since an Industrial Dispute is pending." Inside the court the management says to the workman, that, "We will not, permit you to get a dismissal of your reference in the Labour Court". The Industrial Disputes Act, is a welfare legislation, enacted to protect the interest of workmen. Continuing the dispute of this petitioner, is detrimental and dismissing his dispute is beneficial, to the workman. Therefore, what is beneficial to the worker, is to be preferred.

10. The ultimate request of the management, in the written statement, is to dismiss, the Industrial Dispute. It is not known, that how the management will be

prejudiced, if the dispute raised on behalf of the instant petitioner alone, is dismissed. The government have referred the GO for the dispute of two other workmen also. There is no reason, to deny the request of the petitioner, to dismiss the reference made only for his dispute. The disputes of the other two contesting workmen will continue. Therefore, this court is of the view that in the interest of justice, the reference made by the Government, in respect of the worker V. Nagarajan alone can be dismissed.

11. In the result, this application is allowed. No cost.

Dictated by me to the stenographer, taken down in short hand, transcribed and typed by her in the computer, corrected and pronounced by me in open court, on this the First day of March, 2021.

Presiding Officer,
Labour Court, Tiruchirappalli.