

BEFORE THE PRINCIPAL LABOUR COURT, VELLORE.

**PRESENT : S.Uma Maheswari, M.L.,
Presiding Officer.**

Thursday, the 14th day of November 2024

**MEMO
IN
I.D.No. 8 / 2024**

D.Karunakaran ... Petitioner / Workman

- VS -

The Management,
Susee Polymers Private, Limited,
Pillaiyarkuppam,
Perumugai,
Vellore – 632 009.

... Respondent / Management

This memo filed by the petitioner to decide the fairness of the domestic enquiry conducted by the management as a Preliminary Issue on 11.11.2024 in the presence of Thiru.D.Christopher, Counsel for the Petitioner and M/s. M.R.Ramanan and Associates, Advocate for the respondent and upon hearing the both side and upon perusing the entire material case records and having stood over for consideration till this date, this Court delivered the following:-

ORDER

The above I.D. has been raised by the petitioner against the termination order issued by the respondent's management to him and at present the I.D. is pending for enquiry. At this stage, the petitioner filed a Memo to decide the fairness of the domestic enquiry conducted by the management as a Preliminary Issue.

This memo was strongly objected by the respondent on the ground that the respondent filed a petition u/s. 33(2)(b) of I.D. Act before the Assistant Commissioner of Labour, Vellore and the same was allowed by an order dated 23.05.2022. Thus the validity of the domestic enquiry has already been upheld by the authority with appropriate jurisdiction under the I.D. Act. Therefore, the validity of domestic enquiry cannot be agitated once again by the petitioner by raising a Preliminary Issue. Therefore, the respondent requests to reject the memo by filing the order of Assistant Commissioner of Labour, Vellore.

This court heard both the counsels and there is no dispute that the respondent has filed an approval petition before the Assistant Commissioner of Labour, Vellore, the petitioner herein has also endorsed his no objection to allow the application without prejudicing his rights to raise industrial dispute. The petitioner while making no objection endorsement denied the charges made against him.

Now the very simple point is whether the order passed by the Assistant Commissioner of Labour, upholding the validity of domestic enquiry will operate as resjudicata or not? as argued by the learned respondent counsel. To answer this question this court is relying upon the decision of our Hon'ble High Court passed in W.P.No.6955-6957/2016 and W.PNo.5254-5682/2018 in which our Hon'ble Madras High Court has clearly by relying upon the order of Hon'ble Karnataka High Court held that,

“the finding rendered with regard to the Preliminary Enquiry in an application for approval with regard to the proceedings of the enquiry will not be binding, if an industrial dispute is raised”

and finally decided that

“the award of labour court cannot be quoted as a precedent, as it cannot operate as resjudicata, when an industrial dispute is raised by the employee u/s. 2(A) of the Act or by the union u/s. 10(1) of the I.D. Act.”

Therefore, in view of the above decision, the order passed by the Assistant Commissioner of Labour upholding the validity of domestic enquiry u/s. 33(2)(b) of I.D. Act will not be binding and the petitioner can very well raise the validity of the domestic enquiry as a Preliminary Issue. Hence, the memo filed by the petitioner is recorded and Preliminary Issue is also framed.

Dated this the 14th day of November 2024.

**Sd/- S.Uma Maheswari
Presiding Officer,
Principal Labour Court,
Vellore.**