

Nut Products Company Vs. Christopher

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Court : Chennai

Decided On : Jun-15-2012

Judge : D.Hariparanthaman, J.

Acts : [Constitution of India](#) - Articles 226

Appeal No. : W.P.(MD).No.14192 of 2011 and M.P.(MD)Nos.1 of 2011

Appellant : Nut Products Company

Respondent : Christopher

Advocate for Def. : Mr.G.Manivannan, Adv.

Advocate for Pet/Ap. : Mr.K.N.Thampi, Adv.

Judgement :

PRAYER

Writ Petition is filed under Article 226 of the [Constitution of India](#) praying to issue a Writ of certiorari, calling for the records of the 2nd respondent pertaining to its preliminary award dated 11.10.2011 in Industrial Dispute No.14/2010 on its file, quash the same, dismissing the I.D.

ORDER

1. The petitioner is an Industry. R1 is their workman. The first respondent was removed from service by an order dated 11.06.2009. Industrial Dispute relating to the non employment of the first respondent is pending adjudication in I.D.No.14 of 2010 on the file of the second respondent Labour Court. The first respondent questioned the fairness of the enquiry that preceded the passing of the dismissal order. The same was tried as a preliminary issue. The second respondent Labour Court passed an order dated 11.10.2011 on the preliminary issue holding that the enquiry was not conducted fairly and properly. The said order of the Labour Court is put to challenge in the writ petition.

2. Heard both sides.

3. I am not going into the merits of the case. I am dismissing the writ petition on the ground of maintainability. It is well settled that the writ petition cannot be entertained against the preliminary order of the Labour Court holding that the enquiry is fair or not fair. The judgment of the Apex Court reported in 2012 LLR 115 (Dena Bank Vs. D.V.Kundadia) is squarely applicable to the facts of the case. The relevant paras 2 and 3 in the above said judgment are extracted hereunder:

2. It is well-settled by this Court that no writ should be entertained against an interim order of the Labour Court or the Industrial Tribunal. It is only when a final award is given, then a party should be allowed to challenge it if he is aggrieved.

3. In the present case, the order of the Tribunal dated 28.05.1997 was only an interim order and it did not decide the reference finally. Therefore, the writ petition was rightly dismissed. Hence, we are not inclined to interfere in this matter.

Furthermore, a Division Bench of this Court in 1995-1 L.L.N. 1022 (N.Gurumurthy V. Second Additional Labour Court) is also squarely applicable to this case. The relevant para 8 is also extracted hereunder:

Taking into consideration all these aspects we are of the view that the findings recorded by the Labour Court on preliminary issues such as whether the domestic inquiry has been fair or proper or the Labour Court has jurisdiction to entertain the dispute or whether the person claiming the status as a workman is a workman or

not, should not be interfered with, unless such findings are recorded without notice to any one of the parties or recorded without any reason. The point raised for determination is answered accordingly. The preliminary order challenged in the writ petition does not fall in any one of the aforesaid exceptions. Therefore, we see no ground to interfere with the order passed by the learned Single Judge. Accordingly, the writ appeal is rejected. The parties are directed to appear before the Labour Court on 3 January 1995 and from that date, within three months, the Labour Court shall decide the case. The civil miscellaneous petition is rejected. However, there will be no order as to costs.

4. For all the above reasons, the writ petition is dismissed. However, the writ petition can very well challenge the preliminary award, after passing of the final award. No costs. Consequently, connected miscellaneous petition is also dismissed.

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