

(2010) 12 SHI CK 0282
In the High Court Of Himachal Pradesh
Case No : CWP No. 6330 of 2010

Federal Mogul Bearing India Ltd.

APPELLANT

Vs

State of H.P. and Others

RESPONDENT

Date of Decision : 02-12-2010

Acts Referred:

Industrial Disputes Act, 1947 — Section 33(A)

Citation : (2010) 12 SHI CK 0282

Hon'ble Judges : Kurian Joseph, C.J.;V.K. Sharma, J

Bench : Division Bench

Judgement

Kurian Joseph, C.J.—The Management has come up before this Court aggrieved by the interim order passed by the Labour Court, Shimla in M. App. No. 10/2010 in App. No. 1/2010, Annexure P-9/A. As per the impugned order, the Labour Court declined to decide the preliminary question raised by the Management as to whether u/s 33A of the Industrial Disputes Act, 1947, petition is maintainable when u/s 332(b) of the Act petition is pending before the Labour Court. In the nature of the view we propose to take, we do not think it necessary to go into various factual background in this case. It is not in dispute that in respect of the same Management, in other five pending matters, the Labour Court has taken a decision to decide the issue as a preliminary issue. Some of the orders are produced in this case. Only in two cases, the Labour court has declined to decide the issue as a preliminary point.

2. The learned Counsel for the workman points out that the Labour Court is justified in taking the stand, as above, since it is the Management who failed to raise the preliminary point at the appropriate stage. Be that as it may. Now that in five cases, the Labour Court has decided to take it as a preliminary issue, in respect of the workman of the same establishment, it is only proper, fair and in the interest of justice that in this case also, the Labour Court follows the same course. Therefore, this writ petition is disposed of directing the Labour Court to decide the point raised and referred to above as a preliminary issue before

further proceeding with the trial. There will be a direction to the Labour Court to decide the preliminary issue in all the cases in respect of the Management on or before 31st March, 2011.

3. The writ petition is disposed of, so also the pending applications, if any.