

(2001) 02 KL CK 0052
In the High Court Of Kerala
Case No : W.A. No. 3136 of 2000

Gwalier Rayons Workers Organisation

APPELLANT

Vs

State of Kerala

RESPONDENT

Date of Decision : 07-02-2001

Acts Referred:

Industrial Disputes Act, 1947 — Section 25

Citation : (2001) 1 ILR (Ker) 579 : (2001) 1 LLJ 1236

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

Bench : Division Bench

Advocate : P.C. Chacko and Sivan Madathil, for the Appellant; Antony Dominic and K. Sasikumar, Government Pleader, for the Respondent

Final Decision : Dismissed

Judgement

K.K. Usha, C.J.—This is an appeal against the judgment of the learned Single Judge in O.P. No. 29357/2000 at the instance of the petitioner. The challenge in the Original Petition was against Ext. P2 order passed by the Government in Ext. PI application filed by the second respondent under S. 25-O(5) of the Industrial Disputes Act, 1947. The second respondent had made an application under sub-s. (1) of S. 25-O on 23.8.1999 before the first respondent. The application was rejected by the first respondent by an order dated 16.10.1999. Under Ext. PI the second respondent sought review of the above order. In the alternative there was a prayer for referring the matter to an Industrial Tribunal for adjudication. Under Ext. P2 order Government rejected the prayer for review but granted the prayer for referring the matter to an Industrial Tribunal. The petitioner contended that the first respondent has no jurisdiction to allow the prayer for referring the matter to an Industrial Tribunal once it has adjudicated on the prayer for review of the order dated 16.10.1999. The learned Single Judge was also inclined to accept the above contention. The Original Petition was, therefore, dismissed. Aggrieved by the above judgment the petitioner has come up in appeal.

2. S. 25-O(5) reads as follows:-

"25-O. Procedure for closing down an undertaking.

(5) The appropriate Government may, either on its own motion or on the application made by the employer or any workman, review its order granting or refusing to grant permission under sub-s. (2) or refer the matter to a Tribunal for adjudication."

On a reading of the above section we are inclined to agree with the view taken by the learned Single Judge. The fact that it is provided under sub-s. (5) that the Government may either review order or refer the matter to a Tribunal for adjudication would not disable the Government from passing an order referring the matter to a Tribunal for adjudication when it takes the view that there is no reason to review its earlier order refusing the permission for closure. We do not find any contradiction in such a view taken in Ext. P2. It is true that if the Government had taken a decision to allow the petition for review then it may have to rehear the entire issue relating to permission for closure. Under such circumstances it may not be possible for the Government to pass an order referring the matter to a Tribunal for adjudication along with rehearing of the application for closure." In a case as in the present one where the Government has affirmed its earlier view rejecting the prayer for closure there is no illegality or irregularity in the Government granting the alternate prayer for referring the matter to a Tribunal for adjudication.

3. Learned counsel appearing on behalf of the appellant contended that it is unusual and it is also improper to enter into a detailed discussion when the Government decided to refer the matter to a Tribunal for adjudication. In Ext. P2 the Government had entered into such a discussion. We do not find that the discussion that is seen in Ext. P2 relates to the order passed by the Government referring the matter for adjudication. A reading of Ext. P2 would clearly show that the entire discussion was in justification of the view taken that there is no reason to review its earlier order declining the prayer for closure.

In the light of the above we affirm the judgment of the learned Single Judge and dismiss the Writ Appeal.