

(2013) 04 AHC CK 0260

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 19797 of 2013

Ircon International Ltd.

APPELLANT

Vs

Presiding Officer and Others

RESPONDENT

Date of Decision : 11-04-2013

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2013) 5 ADJ 450 : (2013) 137 FLR 1020 : (2013) LLR 820

Hon'ble Judges : Tarun Agarwala, J

Bench : Single Bench

Advocate : R.N. Singh, Jyoti Prakash and A.P. Nagrath, for the Appellant;

Final Decision : Dismissed

Judgement

Tarun Agarwala, J.—The employers filed an application No. 9/1 before the Tribunal praying that on the basis of the admission of the workman in his pleadings and the decision rendered in a similar matter in the case of Lal Mohammad and others, the matter may be decided. The Tribunal rejected the application by an order dated 22nd February, 2013, against which, the present writ petition has been filed. Having heard Sri R.N. Singh, the learned Senior Counsel assisted by Sri Jyoti Prakash and Sri A.P. Nagrath, the learned Counsel for the petitioner, the Court is of the opinion that against an order passed on an application, the writ petition is not maintainable.

2. In The Cooper Engineering Limited Vs. Shri P.P. Mundhe, . the Supreme Court held that there was no justification for any party to stall the final adjudication of the dispute by the Labour Court by questioning its decision with regard to the preliminary issue when the matter can be agitated even after the final award.

3. In S.K. Verma Vs. Mahesh Chandra and Another, . the Supreme Court has held that the preliminary objections has become quite a fashion to be raised by the employers, particularly in a public sector undertaking whenever an industrial dispute is referred to a Tribunal for adjudication. The Supreme Court said that it

was a pity that when an industrial dispute is referred for adjudication a public sector undertaking, which is a instrumentality of the State, instead of welcoming a decision by the Tribunal on merits, attempts to evade a decision on merits by raising such objection and, upon rejection of the objections, carry the matter to the High Court.

4. Similar observation was made by the Supreme Court in *D.P. Maheshwari Vs. Delhi Administration and Others*, wherein the Supreme Court further stated that Article 226 of the Constitution of India was not meant to break the resistance of the workman by dragging them in unnecessarily litigation and that the jurisdiction under Article 226 of the Constitution of India was not to be exploited by those who can well afford to wait.

5. In the light of the aforesaid, the Tribunal was justified in rejecting the application by holding that each case was required to be decided on its own facts and that the case of *Lal Mohammad and others* would be considered at the appropriate stage. This Court does not find any error in the impugned order requiring the Court to interfere at this interlocutory stage. The contention of the learned Counsel that the preliminary issue went to the root of the matter and ought to have been decided is patently erroneous. The Supreme Court in Case of *D.P. Maheshwari (supra)*, has clearly held that it is not prudent to decide a preliminary issue and that the Labour Court should decide all the points together. This view of the Supreme Court was again reiterated by a decision of the Full Bench of this Court in *Swarup Vegetable Products Industries Ltd., Mansoorpur, Muzaffarnagar Vs. Labour Court-II, Meerut and another*, .