

(2016) 12 KL CK 0032
In the High Court Of Kerala
Case No : W.P.(C). No. 36919 of 2015

Smt. Geetha Narayanan

APPELLANT

Vs

The Labour Court, Ernakulam

RESPONDENT

Date of Decision : 15-12-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2017) 2 LLJ 70 : (2017) 2 LLN 500

Hon'ble Judges : A. Muhamed Mustaque, J.

Bench : Single Bench

Advocate : Sri. K.A. Hazan, Smt. M.M. Fathima Jaleena, Sri. V.J. James, Sri. Arun Paul (Kaprassery), Advocates, for the Petitioner; Sri. S. Gopinathan, Senior Government Pleader, for the Respondent Nos. 1 and 3; Sri. Alexander Joseph, Advocate, for the Respondent No

Final Decision : Disposed off

Judgement

A. Muhamed Mustaque, J.—The short issue in this writ petition is with regard to a finding in Ext.P-5 award of the Labour Court, Ernakulam, that the dispute between the employee of Sreeekrishna Swamy Temple of Chelamattam and Chelamattam Dewaswom is not tenable as the labour court has no jurisdiction.

2. At the outset, it is pointed out by the learned counsel for the petitioner, who was an employee of the temple, that the labour court entered into such a finding without affording the petitioner an opportunity of hearing. It is submitted that the Labour Court heard the matter on the preliminary issue of the propriety and validity of the domestic enquiry and came out with the award, holding that the labour court has no jurisdiction in the light of a Division Bench decision of this Court in Cherinjumpatty Thampuratty v. State of Kerala [2004 (3) KLT 303].

3. The learned counsel for the 2nd respondent Dewaswom, would argue that an employee of the temple cannot be treated as an employee of the industry; and therefore, the labour court award has to be sustained.

4. The issue to be decided now is with regard to the jurisdiction of the labour court and not on the issue whether the employer is an industry or not. The question depends upon the nature of the statute, under which the issue is referred.

5. The learned counsel for the petitioner would argue that Cherinjumpatty Thampuratty's (cited supra) case was decided on the premise that it may not be covered by the Hindu Religious Charitable Endowments Act, 1951. According to the learned counsel for the petitioner, but, this would apply only to the Malabar area and insofar as the matter is covered by the Travancore Cochin Hindu Religious Institutions Act, there is no prohibition in entertaining the Travancore Cochin Hindu Religious Institutions Act by the labour court. Under the Hindu Religious Charitable Endowments Act, this Court, in Cherinjumpatty Thampuratty's (cited supra) case, held that the labour court has no jurisdiction to adjudicate such a labour dispute.

6. This Court is of the view that it is a matter for the labour court to consider whether there is any machinery provided in terms of the Travancore Cochin Hindu Religious Institutions Act in order to hold whether the labour court has jurisdiction to decide the matter in the light of the decision in Cherinjumpatty Thampuratty's(cited supra) case.

7. As rightly pointed out by the learned counsel for the petitioner, this is a matter to be remitted back to the Labour Court, Ernakulam, for consideration afresh. Accordingly, the writ petition is disposed of, as follows;

? The impugned award is set aside.

? The parties shall appear before the Labour Court, Ernakulam on 10.01.2017.

? It is also open for the labour court to consider the objection raised by the learned counsel for the Devaswom that the temple is not an industry as referable under the Industrial Disputes Act.