



2025:DHC:5546



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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*Date of Decision: 10.07.2025*

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**W.P.(C) 924/2022 & CM APPL. 2666/2022**PFIZER LIMITED THROUGH CONSTITUTED ATTORNEY  
MR SAMIR KAZI .....PetitionerThrough: Mr Ajit Makhijani, Mr Gaurav Bahl,  
and Mr Amit Yadav, Advocates.

versus

GOVERNMENT OF NATIONAL CAPITAL TERRITORY,  
DELHI & ORS. ....RespondentsThrough: Mr. Rishikesh Kumar, ASC, GNCTD  
with Ms. Sheenu Priya, Mr. Atik Gill  
and Mr. Sudhir Kumar Shukla,  
Advocates for R-1 & 2.  
Mr. Satyendra Mishra and Mr.  
Ahmad Khan, Advocates for R-3.**CORAM:****HON'BLE MS. JUSTICE TARA VITASTA GANJU****TARA VITASTA GANJU, J.: (Oral)**

1. The present Petition seeks to challenge the order of reference dated 04.03.2021 [hereinafter referred to as the "Impugned Order"] passed by the Respondent No.2, referring a dispute to the learned Labour Court for adjudication. An additional prayer is also being made by the Petitioner seeking directions to quash all proceedings emanating from the Impugned Order.

2. The grievance of the Petitioner is in a narrow compass. It is contended by the learned Counsel for the Petitioner that the Respondent No.2 has not



exercised the powers and authority vested in it prior to passing the Impugned Order. It is stated that the powers of the Respondent No.2 as a referring authority are to be exercised by applying its mind to relevant factors prior to referring a dispute for adjudication to the learned Labour Court. It is the contention of the Petitioner that unless the aspect of maintainability and jurisdiction is decided by the Referral Authority appointed by Respondent No.1 [hereinafter referred to as the “Referral Authority”], the terms of reference cannot be set out, referring a dispute for adjudication to the Labour Courts.

3. Briefly the facts are that a complaint was filed by the Respondent No.3 on 20.12.2019 against the Petitioner alleging wrongful termination of the services of the Respondent No.3 by the Petitioner, which led to summons being issued to the Petitioner. In response to the summons issued by the Referral Authority, the Petitioner addressed communication dated 05.03.2020 enclosing Written Submissions with documents as its Reply. A Rejoinder was subsequently filed to those Submissions by the Respondent No.3 and a Sur-Rejoinder as well by the Petitioner. On 04.03.2021, the Referral Authority passed the Impugned Order referring the matter to the learned Labour Court. The Petitioner is aggrieved by this order. It is apposite to extract the terms of the reference as set out by the Referral Authority which are below:

*“Whether the service of workman Sh. Sombir Singh (Age- 32) S/o. Sh. Chhatter Singh, Mobile No. 9999145358 have been terminated illegally and / or unjustifiably by the management; if so, to what relief is he entitled and what directions are necessary in this respect?”*

[Emphasis Supplied]

4. The principal grievance of the Petitioner is that despite all necessary



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pleadings and documents being available with the Referral Authority, the Authority, without application of mind, has mechanically issued the terms of reference and has passed directions referring the dispute for adjudication to the learned Labour Court.

5. Learned Counsel for the Petitioner submits that it is settled law that the Referral Authority is required to apply its mind and pass a reasoned order prior to referral of a dispute to the learned Labour Courts. It is stated that the Referral Authority cannot merely act as a channel of communication between the Conciliation Officer and the learned Labour Court but does have to take a decision on the material placed before it, prior to directing a reference. It is contended that this referral cannot be done mechanically.

5.1 Learned Counsel for the Petitioner, in this behalf, has placed reliance on the judgment of the Supreme Court in *Tata Iron and Steel Company Limited v. State of Jharkhand and Ors.*<sup>1</sup> and of a Coordinate Bench of this Court in *HT Media Limited v. Government of NCT of Delhi and Ors.*<sup>2</sup> as well.

6. Learned Counsel for the Respondent No.3, on the other hand, submits that the only error in the reference is that of the use of the word “workman” and that a corrigendum could be issued by the Referral Authority correcting this error. It is submitted that the proceedings before the learned Labour Court commenced in 2021 and had reached the stage of evidence prior to being stayed by a direction passed by this Court. Learned Counsel thus submits that the direction should be passed by this Court for issuance of a

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<sup>1</sup> (2014) 1 SCC 536

<sup>2</sup> 2019 SCC Online Del 9728



corrigendum.

7. Learned Counsel for Respondent Nos.1 and 2 submits, on instructions, that the Referral Authority does have the power to issue a corrigendum.

8. The issue which has been raised by the Petitioner is no longer *res integra*. The Supreme Court in *Tata Iron and Steel Company* case has examined the terms of jurisdiction of the Labour Department/Appropriate Government as a referral authority and has discussed its powers. It has been held that the referral authority must word the terms of reference in such a manner that they reflect the actual nature of the dispute between the parties. It has further been held that terms are neither to reflect the version of the workman nor of the employer. The Supreme Court also held that the Industrial Tribunal/Labour Court acquires jurisdiction on the basis of reference made to it by the Appropriate Government and it is for this reason that it becomes the bounden duty of the Appropriate Government or Referral Court to make the reference appropriately which is reflective of the “real nature of the dispute” between the parties. Emphasis has been laid on the wording of the terms of reference and it has been held that unless the terms of reference are appropriately worded, the findings of the Labour Department/Appropriate Government would not be appropriate. The relevant extract of *Tata Iron and Steel Company* case is set out below:

*“11. Having said so, we are of the opinion that the terms of reference are not appropriately worded inasmuch as these terms of reference do not reflect the real dispute between the parties. The reference presupposes that the respondent workmen are the employees of the appellant. The reference also proceeds on the foundation that their services have been “transferred” to M/s Lafarge. On these suppositions the limited scope of adjudication is confined to decide as to whether the*



appellant is under an obligation to take back these workmen in service. **Obviously, it is not reflective of the real dispute between the parties. It not only depicts the version of the respondent workmen, but in fact accepts the same viz. they are the employees of the appellant and mandates the Labour Court/Industrial Tribunal to only decide as to whether the appellant is required to take them back in its fold.** On the contrary, as pointed out above, the case set up by the appellant is that it was not the case of transfer of the workmen to M/s Lafarge but their services were taken over by M/s Lafarge which is a different company/entity altogether. As per the appellant they were issued fresh appointment letters by the new employer and the relationship of employer-employee between the appellant and the workmen stood snapped. This version of the appellant goes to the root of the matter. Not only it is not included in the reference, the appellant's right to put it as its defence, as a demurer, is altogether shut and taken away, in the manner the references are worded.

**12. We would hasten to add that, though the jurisdiction of the Tribunal is confined to the terms of reference, but at the same time it is empowered to go into the incidental issues. Had the reference been appropriately worded, as discussed later in this judgment, probably it was still open to the appellant to contend and prove that the respondent workmen ceased to be their employees.** However, the reference in the present form does not leave that scope for the appellant at all.

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**16. The Industrial Tribunal/Labour Court constituted under the Industrial Disputes Act is a creature of that statute. It acquires jurisdiction on the basis of reference made to it. The Tribunal has to confine itself within the scope of the subject-matter of reference and cannot travel beyond the same.** This is the view taken by this Court in a number of cases including in *National Engg. Industries Ltd. v. State of Rajasthan* [(2000) 1 SCC 371 : (2007) 2 SCC (L&S) 264] . **It is for this reason that it becomes the bounden duty of the appropriate Government to make the reference appropriately which is reflective of the real/exact nature of "dispute" between the parties.**"

[Emphasis supplied]

9. A Coordinate Bench of this Court in the ***HT Media*** case, while discussing the law in this behalf, has held that although the learned Labour Court is possessed of the jurisdiction to enter into the merits of the controversy, the Appropriate Government is also required to judiciously



apply its mind and address all relevant factors before making an order of reference. The relevant extract of *HT Media* case is set out below:

**“34. Needless to say, of course, *once an industrial dispute, referable to adjudication by the Labour Court, or Industrial Tribunal, possessed of territorial jurisdiction in that regard, was found to exist, the appropriate Government could not enter into the merits of the controversy* between the parties, while deciding whether to refer, or not to refer, the dispute to adjudication [Refer *Sukhbir Singh v. U.O.I.*, 1994 LLR 375 (Del)] *Its jurisdiction, therefore, is limited to deciding whether a referable industrial dispute exists or not; however, while doing so, the appropriate Government is required to judiciously apply its mind to the issue, and address all relevant factors, before making an order of reference.*”**

[Emphasis Supplied]

10. It is the case of the Petitioner that the word “workman” has been lightly used by the Referral Authority. It has been contended that the Respondent No.3 is not a workman as is defined under the Industrial Disputes Act, 1947 [hereinafter referred to as the “ID Act”] but he was an employee of the Petitioner who was appointed in a supervisory capacity as a professional service officer in the Executive cadre of the Petitioner in terms of the appointment letter dated 11.07.2016. It has been contended that a bare perusal of the appointment letter would show that the Respondent No.3 is an executive and a supervisor and not a workman as is defined in Section 2(s) of the ID Act.

10.1 In addition, it is contended that one of the terms of the appointment is that the appointment is subject to the exclusive jurisdiction of the Courts at Mumbai, thus, the Petitioner has contended that the adjudication of the Referral Authority and consequently the learned Labour Court was *sans jurisdiction*.

11. The Petitioner has also drawn the attention of the Court on a judgment



of the Supreme Court in *Rahman Industries Private Limited v. State of Uttar Pradesh and Ors.*<sup>3</sup> to submit that this Court cannot take away the discretion on the part of the Referral Authority to look into the issue and decide as to whether there is a referable dispute or not. It is contended that it is within the exclusive jurisdiction of the Referral Authority to examine whether a dispute exists or not and in case it is so satisfied, it should refer the dispute for adjudication before the learned Labour Court. It is apposite to set out the findings in the *Rahman Industries* case as below:

*“2. The grievance of the appellant is in a very narrow compass. It is pointed out that there is a peremptory direction by the High Court to refer the dispute raised by the workmen for adjudication, virtually taking away the discretion on the part of the Government to look into the issue as to whether there is a referable dispute at all.*

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*8. The High Court has, in the impugned order [Rahman Exports (P) Ltd. v. State of U.P., 2011 SCC OnLine All 244 : (2011) 129 FLR 213] , denied the jurisdiction vested in the Government in the scheme of the Act to examine a case for the purpose of satisfying itself as to whether there exists a dispute for referring to the Labour Court/Industrial Tribunal for adjudication. **The High Court has issued a mandatory direction in the very first instance to refer the dispute, if any, raised by the workmen for adjudication before the Labour Court. That is against the scheme of the Act as we have seen from the legal position settled by this Court.***

*9. We, hence, set aside the impugned order [Rahman Exports (P) Ltd. v. State of U.P., 2011 SCC OnLine All 244 : (2011) 129 FLR 213] to the extent that there is a mandatory direction for referring the issues raised by the workmen for adjudication. **However, we make it clear that the Government must examine whether a dispute exists or not, and in case it is so satisfied, it should refer the same for adjudication before the Labour Court.** Needful should be done within a period of three months from the date on which the issue is raised by the workmen.”*

[Emphasis Supplied]

12. The law has laid down by the Courts is thus that when a dispute is

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<sup>3</sup> (2016) 12 SCC 420



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brought before a Referral Authority, the authority is required to examine the dispute limited to the extent as to whether a referable industrial dispute exists or not and while doing so is required to consider the documents that the parties have placed before it, prior to making the order of reference. The terms of reference will thus reflect the actual dispute between the parties. The Referral Authority may however not enter into the merits of the controversy at the stage of Reference.

13. The Impugned Order as extracted above presupposes that the Respondent No.3 is a workman and that the dispute is amenable to the jurisdiction of the learned Labour Courts, which according to the Petitioner is not in accordance with law.

14. In view of the foregoing discussions, the Impugned Order issued by the Respondent No.2/Referral Authority is set aside. Consequently, all proceedings emanating therefrom are also set aside.

15. The parties shall appear before the Referral Authority within a week from today. The Referral Authority shall take appropriate action based on the discussions and in accordance with the law in this behalf, keeping in mind the pendency of the dispute for the last four years.

16. The Petition is disposed of in the foregoing terms. All pending Applications stand closed.

17. The parties shall act based on the digitally signed copy of the order.

**TARA VITASTA GANJU, J**

**JULY 10, 2025/ ha/pa**