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**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 29<sup>TH</sup> DAY OF MAY, 2018**

**PRESENT**

**HON'BLE MR.JUSTICE DINESH MAHESHWARI, CHIEF JUSTICE**

**AND**

**HON'BLE MR.JUSTICE KRISHNA S DIXIT**

**WRIT APPEAL NOS. 1418-1419 OF 2018 (L-RES)**

**BETWEEN:**

M/S AUTOMOTIVE AXLES LTD.,  
HOOTAGALLI INDUSTRIAL AREA,  
OFF HUNSUR ROAD, MYSURU – 18,  
NOW REPRESENTED BY ITS  
ASST. GENERAL MANAGER – HR.

... APPELLANT

(BY SRI. B. C. PRABHAKAR, ADVOCATE  
FOR BHOOPALAM LAW ASSTS)

**AND:**

1. SRI. N. SANDESHKUMAR  
S/O LATE N.NANJUNDAIAH  
NO. 715, VI CROSS, II MAIN,  
II STAGE, HEBBAL, MYSURU – 570 017.

2. SRI. N. K. SHRIPATHI BHAT  
S/O LATE N. K. SUNDARA RAO  
NO.56, 8<sup>TH</sup> MAIN, 1<sup>ST</sup> STAGE,  
HEBBAL, MYSURU – 570 016.

... RESPONDENTS

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THESE WRIT APPEALS ARE FILED UNDER SECTION 4  
OF THE KARNATAKA HIGH COURT ACT PRAYING TO SET  
ASIDE THE ORDER DATED 27/03/2018 PASSED BY THE  
LEARNED SINGLE JUDGE IN WP NOS. 12726 - 12727/2018 (L-  
RES) AND ALLOW THE WRIT PETITION FILED BY THE  
APPELLANT IN THE WP NOS. 12726-12727/2018 (L-RES).

THESE APPEALS COMING ON FOR PRELIMINARY HEARING THIS DAY, **KRISHNA S. DIXIT JUDGE**, DELIVERED THE FOLLOWING:

### **J U D G M E N T**

This writ appeal by the appellant – Management challenges the judgment and order dated 27.03.2018 made by the learned Single Judge in appellant's writ petition Nos.12726 & 12727/2018 (L-RES) whereby, the said writ petition is dismissed upholding the common order dated 03.03.2018 made by the Labour Court at Mysore in Reference Nos.12 & 13/2017. By the said order, the learned Presiding Officer of the Labour Court has rejected appellant – Management's prayer to treat certain questions as preliminary issues before dwelling into merits of the industrial dispute.

The brief facts of this case are :-

(a) The services of the respondents herein allegedly came to be terminated without any justification. Both the respondents raised an industrial dispute which came to be referred by the Government of Karnataka under Section 10 (1) (c) of the Industrial Disputes Act, 1947 ['the I.D.Act, 1947']. On such Reference, the Labour Court at Mysore registered the same as Reference Nos.12/2017 & 13/2017.

(b) Both the private respondents filed their respective Claim Statements and the appellant – Management filed its Counter Statements. The Management took up specific contention that the respondents, being a part of managerial staff, do not answer the definition of “Workman” under Section 2 (s) of the I.D.Act, 1947, regardless of their designation. The Management prayed that the said question be tried as a preliminary issue since the same goes to the root of the matter and decides its fate. The respondents opposed this prayer of the Management.

(c) Keeping in view the rival contentions, the Labour Court formulated the question for its decision as under:

*“In view of the principles ruled by the Hon'ble Supreme Court of India in the decisions relied on by learned advocate, Sri.NGP and also having regard to the Point No.1 of Reference sent by the Government for adjudication by this Court, whether the Point No.1 of the Reference needs to be adjudicated at first before taking up the other points for consideration or else, all the points sent for adjudication needs to be answered by the Court at once ?”*

(d) The Labour Court heard both the sides and by its common order dated 03.03.2018 rejected the request of the Management to take up its contention namely whether the

respondents herein answer the definition of "Workman" under Section 2 (s) of the I.D. Act, 1947, as a preliminary issue. This was challenged by the Management in W.P.Nos.12726 & 12727/2018 (L-RES) and the learned Single Judge of this Court, concurring with the order of the Labour Court, dismissed the writ petitions. This order of the learned Single Judge is in challenge in the present Writ Appeals.

The learned counsel for the appellant – Management in substance contends that the jurisdiction of the Labour Court is essentially dependent upon the answer to the question as to whether the respondents fit into the definition of "Workman" given under Section 2 (s) of the I.D. Act, 1947, as interpreted by the Apex Court in a catena of decisions. He submits that if an Industrial Tribunal/Labour Court proceeds to assume jurisdiction over a non-industrial dispute, the same could be put to challenge, as held by the Apex Court in the case of Management of Express (Pvt) Ltd, Madras Vs. The Workers and Others (AIR 1963 SC 569).

We have heard learned counsel for the appellant – Management. We have also perused the record and the

impugned judgment of the learned Single Judge as also the order made by the Labour Court.

The Labour Courts are established under the provisions of the I.D Act, 1947 for speedier adjudication of Industrial Disputes to the exclusion of Civil Courts. Ordinarily, an issue which can be decided on the basis of material on record can be tried as a preliminary issue when the fate of the main matter depends on the answer to the same. Where the issue involves disputed questions of facts which could be established only after trial, the consistent view of the Courts is that the main matter itself should be set for trial.

In the instant case, the Reference is made by the State Government to decide the Industrial Dispute in question. The issue as to whether the respondents are the "Workman" within the meaning of Section 2 (s) of the I.D. Act, 1947 is a mixed question of law and fact, especially when the Claimants have disputed this assertion of the Management. The said issue cannot be answered without the evidence which is yet to be tendered by the parties in the trial. It is not advisable that this industrial dispute should undergo two-split-stages namely (a)

a mini trial for deciding a preliminary issue and (b) a full-fledged trial for deciding the main matter.

Both the learned Single Judge and the Presiding Officer of the Labour Court have given cogent reasons supported by the decisions of the Apex Court as to why the question as to the status of the respondents herein need not be tried as a preliminary issue. We do not find any jurisdictional error warranting interference in intra Court appeal.

Consequently, these writ appeals are dismissed.

The pending interlocutory application also stands disposed of.

**Sd/-  
CHIEF JUSTICE**

**Sd/-  
JUDGE**

SNB  
CT:VK