

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

[TOYOTA KIRLOSKAR MOTOR EMPLOYEES UNION VS. THE STATE  
OF KARNATAKA AND OTHERS ]

**KSHJ**

07.02.2024

(VIDEO CONFERENCING / PHYSICAL HEARING)

**ORDERS ON I.A.NO.2/2022 FOR IMPLEADING**

Petitioner – Toyota Kirloskar Motor Employees Union has filed this writ petition assailing the order dated 12.10.2021 dismissing the application filed by the Trade Union to recognize workmen to be “protected workmen”

2. I.A.No.2/2022 is filed by the petitioner to implead the applicants as proposed petitioner Nos.2 to 4. The affidavit is sworn by the proposed petitioner No.2. It is stated in the application that the order pertains to denial of their right to be considered as “protected workmen”. It is stated that as an individual workmen whose recognition of status as protected workmen also their employment/non-employment is at stake is a matter required to be considered in the writ petition and the

impleading applicants are necessary and proper parties to the petition.

3. Objection statement is filed by respondent No.4-management to I.A.No.2/2022. The application is opposed by the management on the ground that the application is filed by the petitioner-Union and Section 33(4) of the Industrial Disputes Act, 1947 and Rule 62 of the Industrial Disputes (Karnataka) Rules, 1957 specifically refer to the trade union, which has to choose the workman to be recognized as a protected workman and therefore, the individuals have no role to play in seeking the status of protected workmen, hence, the application is not maintainable and sought for rejection of the application.

4. Heard Sri V.R. Datar, learned counsel for the petitioner and Sri S.N. Murthy, learned senior counsel for respondent No.4-management.

5. Section 33(4) of the ID Act envisages that a registered trade union have to choose the workman to be recognized as a "protected workmen". Rule 62 of the Industrial

Disputes (Karnataka) Rules, 1957 contemplates that only registered trade union would communicate to the management, Sub-Clause (4) of Rule 62 speaks about the dispute between the employer and any registered trade union. From the above provisions, it is clear that it is not the individual workman who has any role to play in seeking status of protected workmen, it is only the registered union who can make an application seeking status of certain workman as protected workman and an individual workman cannot fight any petition in their individual capacity both under Section 33(4) of the ID Act and Rule 62 of the Industrial Disputes (Karnataka) Rules.

6. The decisions placed by the counsel in the case of ***Jaipur Zila Sahakari Bhoomi Bank Ltd. Vs. Ram Gopal Sharma and Others<sup>1</sup>***, ***Ramesh Hirachand Kundanmal Vs. Municipal Corporation of Greater Bombay and Others<sup>2</sup>*** and ***Globe Ground India Employees Union Vs. Lufthansa German Airlines and Another<sup>3</sup>*** are distinguishable and not applicable to the present facts while considering I.A.No.2/2022.

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<sup>1</sup> (2002) 2 SCC 244

<sup>2</sup> (1992) 2 SCC 524

<sup>3</sup> (2019) 15 SCC 273

The application filed is not maintainable for the reasons stated supra and accordingly, rejected.

Sd/-  
**(K.S. HEMALEKHA)**  
**JUDGE**

MBM