



Order reserved on 13.03.2026

Order pronounced on 18.06.2026

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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPL No. 27 of 2012

Pragatisheel Paper Mill Shramik Sangh (Registration No. 351); having its Registered Office at Paragaon, Nayapara – Rajim, District Raipur, Chhattisgarh through its General Secretary Shri Bharat Bhushan Pandey

... Petitioner

versus

1. State Of Chhattisgarh through Secretary, Department of Labour, Mantralaya, DKS Bhavan, Raipur, CG
2. Hanumal Agro Industries Limited Vilalge Paragaon, Navapara – Rajim, District Raipur, Chhattisgarh.
3. Asssistant Labour Commissioner (District Raipur), Kacheri Chowk, Dr. Mahurkar Gali, Raipur.
4. Deputy Labour Commissioner-Cum-Registrar, Trade Unions, Nirmal Chhaya Bhavan, Mira Datar Road, Shankar Nagar, Raipur.
5. Station House officer, Police Station Gobra Navapara, District Raipur.

... Respondents

For Petitioner	: Shri Diwesh Kumar, Advocate
For Respondents No.: 1 and 3 to 5	Shri Suyashdhar Badgaiya, GA
For Respondent No.2:	Shri Adhiraj Surana, Advocate

(Hon'ble Shri Justice Sachin Singh Rajput)

C A V Order

This petition has been filed against the order dated 06.08.2011 (Annexure P-12) passed by respondent No.1 retrenching 08 workmen of

respondent No.2 enlisted in document of Annexure P-4 who happened to be the post bearers and active members of the petitioner – Union, on the basis of false information of their being surplus provided by respondent No.2. These 08 workmen are said to have worked with respondent No.2 - Company for about 15-20 years. This retrenchment is said to have been done without affording any opportunity of hearing. Even the repeated representations made by the retrenched employees and the petitioner – union were shown apathy from respondent No.2.

2. **Facts in short:** Petitioner No.1 is a Union registered under the Trade Unions Act by the Registrar, Trade Unions vide registration certificate (Annexure P-1) and as such it has all the powers and privileges to represent workmen and its office bearers, and also to protect them under the labour laws against victimization and unfair labour practices. Respondent No.2 – Company is engaged in production of paper and employs more than 100 permanent and more than 250 contract workers, and as such amenable to the provisions of Chhattisgarh Industrial Relations Act (for short “CGIR Act”) including the provisions of Chapter V-A, V-B and V-C of the Industrial Disputes Act, and other provisions with respect to lay off, retrenchment compensation, special provisions relating to lay off, retrenchment and closure of certain establishments; and unfair labour practices enlisted in Fifth Schedule as laid down in Industrial Disputes Act, specifically in Section 110 of the CGIR Act. The workmen had been aggrieved of violation of the labour laws by their employer particularly that of the non-payment of minimum wages. All the workmen listed in document of Annexure P/4 are permanent skilled workers of the Respondent No. 2 Company engaged in perennial nature of work, each having put in between 12 to 22 years of service. Those workmen are said to have collectively petitioned to various authorities such

as the Assistant Labour Commissioner, Labour Welfare Commissioner, and the Labour Minister regarding these very reasonable and legitimate demands, but none of their representations appear to have been of any avail. The retrenched workmen continued to report to the factory gate but they were not taken back at work. These workmen made individual complaints to Respondent No. 3 Assistant Labour Commissioner stating that they were the post bearers and activists of the Petitioner Union. They also made complaints regarding non-implementation of minimum wages in the Respondent No. 2 Company. It is stated that under Section 83 of the CGIR Act, there is a specific provision that no employer shall dismiss, discharge any employee or punish him in any other manner merely for the reason that the employee is an officer or a member of the organization as the object of the Act is just to establish better industrial environment.

3. Learned Counsel for the Petitioner submits that the impugned Order dated 06.08.2011 is liable to be set aside as the same was passed on the basis of false and misleading information furnished by Respondent No. 2 and without any independent inquiry or application of mind by Respondent No. 1. It is further submitted that the retrenched workmen were never served with any notice nor afforded an opportunity of hearing before the grant of permission for retrenchment, which is in clear violation of the principles of natural justice and the mandatory provisions of law. He submits the action of the Respondent Company was neither *bona fide* nor necessitated by any genuine reduction in work, as junior workmen continued in service while the retrenched workmen who were experienced permanent employees and active members of the Petitioner Union were singled out for removal. The retrenchment was thus a clear case of victimization and unfair labour practice undertaken in retaliation for the workmen having raised grievances regarding

statutory violations and labour welfare issues. It is further submitted that the mandatory provisions governing retrenchment, particularly under Section 25N of the Industrial Disputes Act, were deliberately circumvented by misrepresenting material facts regarding the strength of the workforce. The impugned order, being arbitrary, mala fide, contrary to the provisions of the Industrial Disputes Act and passed in a colourable exercise of power, is liable to be quashed and appropriate relief may be granted to the affected workmen. He placed reliance on the decision of the Supreme Court in the matter of **Godrej Sara Lee Ltd. v. Excise and Taxation Officer-cum-Assessing Authority and officers** reported in **(2023) SCC OnLine SC 95** and in the matter of **Workmen of Meenakshi Mills Ltd. etc. v. Meenakshi Mills Ltd and another** reported in **1992 Supreme (SC) 419**.

4. Learned Counsel appearing for the Respondent Nos. 1 & 3 to 5 submits that the impugned order dated 06.08.2011 was passed by the Respondent No.1/Secretary, Department of Labour in exercise of powers vested under the Industrial Disputes Act after considering the application submitted by Respondent No. 2/Company seeking permission to retrench eight workmen. It is submitted that prior to passing the impugned order, the competent authority examined the records and material placed before it and thereafter granted permission in accordance with law. Learned Counsel further submits that notices were issued to the concerned workmen and, despite such opportunity, no reply was submitted by them. Consequently, directions were issued to the Company to pay retrenchment compensation in accordance with the provisions of Section 25F of the Industrial Disputes Act. It is further contended that Respondent No. 2 is a private company and does not fall within the ambit of "State" under Article 12 of the Constitution of India. The allegations raised by the petitioner involve disputed questions of fact

relating to retrenchment, service conditions and labour practices which cannot appropriately be adjudicated in writ proceedings. The petitioner has an efficacious alternative remedy under the provisions of the CGIR including proceedings before the Labour Court and raising an industrial dispute under the relevant statutory provisions. He further submits that the impugned order was passed in a quasi-judicial capacity and does not suffer from any illegality, arbitrariness or procedural infirmity warranting interference under Article 226 of the Constitution. It is therefore submitted that the writ petition is misconceived, devoid of merit and liable to be dismissed.

5. Similarly, counsel for respondent No.2 -Company submits that the allegations made by the petitioner Union are wholly misconceived, factually incorrect and devoid of any supporting material. It is contended that the retrenchment of eight workmen was neither on account of their alleged union activities nor by way of victimization, but was necessitated by genuine operational and production constraints arising from the reduction of production capacity pursuant to directions issued by the competent environmental authorities resulting in the closure of one production shift and consequent surplus manpower. It is specifically submitted that Respondent No. 2 employed only about 87 permanent workmen and, therefore, the contention that the establishment had more than 100 permanent workmen is incorrect. He further submits that due notice was served upon the concerned workmen and an opportunity to respond was afforded before the retrenchment proceedings were concluded. The retrenchment was carried out in accordance with the provisions of the Industrial Disputes Act, and statutory retrenchment compensation, notice pay and other admissible dues were paid to the affected workmen, which was accepted by them without protest and the cheques issued in their favour were also encashed. It is further submitted that

the retrenchment was effected on the principle of “last come, first go” and in compliance with the applicable statutory requirements. It is also contended that the petitioner Union lacks *locus standi* to maintain the present proceedings as the at the time of retrenchment the Union itself was not registered. As per the document of Annexure P-12, the retrenchment of the workmen in this case was approved on 06.08.2011 whereas the petitioner union came to be registered on 17.08.2011 which is evident from the document of Annexure P-1. The allegations regarding non-payment of minimum wages, violation of labour laws and unfair labour practices are unrelated to the impugned retrenchment order and involve disputed questions of fact requiring adjudication before the competent labour forum. Learned Counsel submits that the writ petition has been filed after considerable delay with the object of bypassing the statutory remedies available under the labour laws. Since the retrenchment was based on genuine business exigencies, undertaken after due notice, payment of compensation and compliance with statutory requirements, and since the impugned order was validly passed by the competent authority upon consideration of the relevant material, no interference is called for and the petition deserves to be dismissed.

6. Having heard learned counsel for the parties at length and perused the documents brought on record with greater degree of caution, the principal question that arises for consideration is to determine the legality and validity of the retrenchment of eight workmen pursuant to the order dated 06.08.2011 Annexure P/12. Close examination of the material available on record goes to show that the entire foundation of the writ petition rests upon the allegation that the retrenched employees were the office bearers and active members of the petitioner–Union, and therefore, their retrenchment was as a retaliatory measure adopted by respondent No.2. However, except making bald and

omnibus allegations regarding a close nexus between the alleged union activities and the impugned retrenchment, the petitioner has failed to place the same by producing any cogent and convincing material. Mere assertion to this effect does not do in law. What is more important to mention here is that due to restrictions imposed by the competent environmental authorities, the production capacity of the establishment was substantially affected resulting in closure of one production shift and consequent reduction in operational requirements also. Such circumstances naturally lead to surplus manpower validating the ground for retrenchment under labour jurisprudence, adhering to the principle of “last come, first go” and in compliance with the applicable statutory requirements. Another significant circumstance which weighs with this Court is that the retrenchment was preceded by compliance with the statutory requirements governing retrenchment. The respondents have specifically pleaded that notice was issued to the concerned workmen, retrenchment compensation and other statutory dues were paid and accepted by the employees also, and the cheques issued in their favour were encashed. The contention that no opportunity of hearing was granted before retrenchment also does not persuade this Court to interfere particularly when the documents speak otherwise. The material on record clearly indicates that the retrenchment was occasioned by business and operational exigencies and not by the trade union activities of the affected workmen. The scope of judicial review in matters concerning retrenchment is limited as this Court is not supposed to sit in appeal. Interference is warranted only when the action is shown to be arbitrary, *mala fide*, in violation of statutory provisions, or in breach of principles of natural justice resulting in manifest injustice. Upon consideration of the entire material on record, none of these grounds stand established in the present case. This Court is therefore satisfied that the

retrenchment of the eight workmen was undertaken pursuant to genuine operational requirements arising out of reduction in production capacity, that the statutory requirements relating to retrenchment were duly complied with, and therefore the allegations of victimization, anti-union discrimination and unfair labour practice remain unsubstantiated by the petitioner. This Court went through the decisions of the Supreme Court sought to be taken support of by the counsel for the petitioner, however, they being based on different factual fulcrum do not seem to be of much help to the petitioner herein. This Court took note of the submission of the counsel for the respondents that there is an alternative remedy for the petitioner to have approached the Assistant Labour Commissioner for redressal of its grievances, however, as per the settled position of law this Court is not precluded from entertaining the petition under Article 226 of the Constitution of India if no prejudice is going to be caused to either of the parties.

7. In view of the foregoing discussion, this Court finds no illegality, arbitrariness or perversity in the order dated 06.08.2011 passed by respondent No.1. The petitioner has failed to establish that the impugned retrenchment was actuated by *mala fides* or was in violation of any mandatory statutory provision warranting interference under Article 226 of the Constitution of India.

8. Accordingly, the writ petition, being devoid of merit, deserves to be and is hereby **dismissed**.

Sd/-

(Sachin Singh Rajput)
Judge

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