

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.04.2015

CORAM:

THE HONOURABLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE MR JUSTICE M. VENUGOPAL

W.A. No.586 of 2015 and M.P. No.1 of 2015
and
W.A. No.587 of 2015 and M.P. Nos.1 and 2 of 2015

The Management
Floram Shoes India Pvt. Ltd.
M.C. Road
Agaramcheri Post
Madhanur
Via Vellore District
represented by its Director
E. Aaquil Ahmed

... Appellant in both the W.As.

vs.

1. The Presiding Officer
Principal Labour Court
Vellore

... R1 in both the W.As.

2. S. Akbar

... R2 in W.A. No.586 of 2015

3. K. Ravi

... R2 in W.A. No.587 of 2015

Writ Appeals filed under Clause 15 of the Letters Patent
challenging the order dated 12.03.2015 passed in M.P. Nos.2 and 2 of
2014 in W.P. Nos.28081 and 28082 of 2013 respectively.

M.P. Nos.2 and 2 of 2014 in W.P. Nos.28081 and 28082 of 2013 :

Petitions praying that in these circumstances stated therein and
in the respective affidavits filed therewith the High Court will be
pleased to Direct the Ist respondent Management to pay last drawn
wages to the petitioner under Section 17 - B of I.D. Act 1947.

For appellant in
both the W.As.

: Mr. C. Manohar Gupta

COMMON JUDGMENT

(Judgment of the Court was made by SATISH K. AGNIHOTRI, J.)

The instant intra-Court appeals arise from the common order dated 12.03.2015 passed in M.P. Nos.2 of 2015 in W.P. Nos.28081 and 28082 of 2013, whereby and whereunder, the learned Single Judge directed the appellant-Management to pay last drawn wages to the writ petitioners/private respondents herein from October 2013 till the disposal of the writ petitions, under Section 17-B of the Industrial Disputes Act, 1947 (for short "the Act"), including the arrears therein, within a period of four weeks.

2. For the sake of brevity and clarity, the appellant and the second respondent in these writ appeals are referred to as "Management" and "employees" respectively.

3. The facts in brief, relevant for disposal of the instant appeals are that aggrieved by the suspension of manufacturing operations by the Management with effect from 12.11.2004, the workers' union raised a dispute. However, based on the settlement arrived at between the Management and the union subsequent thereto, it was agreed to inter alia that those employees who accept cessation of employment would be paid monetary compensation in full quit and others would be given continued employment on re-structured wages. Albeit the employees accepted cessation of employment and got compensation in full quit, they raised a dispute before the Principal Labour Court, Vellore in I.D. Nos.20 of 2010 and 15 of 2010 respectively, alleging that their services had been terminated. By separate awards dated 23.09.2013, the Labour Court allowed the Industrial Disputes preferred by the employees, directing the Management to reinstate them in service with continuity of service, backwages and all other attendant benefits. Calling in question, the legality, validity and propriety of the said awards passed by the Labour Court, the instant writ petitions, viz., W.P.Nos.28081 and 28082 of 2013 came to be filed by the employees. Along with the said writ petitions, the employees preferred M.P. Nos.2 of 2014 as well, seeking a direction to the Management to pay last drawn wages to the employees under Section 17-B of the Act, which were ordered by the learned Single Judge, as observed above.

4. The case of the Management is that in fact, the employees were not terminated from service on account of suspension of manufacturing operations by the Management with effect from 12.11.2004. The services of the employees were rather dis-continued and full monetary compensation was paid to them in terms of Settlement dated 02.03.2005 and as such, the employees are not entitled to get last drawn wages under Section 17-B of the Act. It is the further case of the Management that without resolving the dispute as to whether it was a termination or dis-engagement on account of suspension of manufacturing operations, the learned Single

Judge has directed the Management to pay last drawn wages to the employees under Section 17-B of the Act, from the date of filing of the writ petitions till the disposal of the same, which warrants interference.

5. The learned counsel for the Management relies on a decision of this Court in the Management, M/s. Floram Shoes (India) Pvt. Ltd. vs. The Presiding Officer, Additional Labour Court, Vellore and 173 others¹.

6. We have heard the learned counsel for the Management and also examined the documents appended to the pleadings as well as the order passed by the learned Single Judge, which is sought to be impugned in these writ appeals.

7. The question as to whether it was a termination simplicitor or on account of closure of the industry, (in this case, dis-engagement of services), is a question on merit, which has to be decided in the pending petition. Section 17-B of the Act provides for grant of last drawn wages, till the disposal of the dispute, at every stage. The learned Single Judge is not required to first decide the nature of termination or dis-engagement while granting benefits under the provisions of Section 17-B of the Act. It is well settled that the Act is a beneficial legislation and there are certain provisions to ensure that the employees do not suffer starvation during the pendency of disputes.

8. The learned Single Judge, on a careful examination of all the facts of the case, came to the conclusion that since the employees are not gainfully employed, till their actual status is determined, they are entitled to the benefits under the provisions of Section 17-B of the Act, which is mandatory in nature.

9. Coming to the reliance placed by the learned counsel for the Management on the judgment in the Management of M/s. Floram Shoes¹ (supra), it is pertinent to note that the dispute involved therein was not in respect of grant of monetary benefits under the provisions of Section 17-B of the Act. Thus, the said judgment relied on by the learned counsel for the Management is distinguishable on facts and as such, is not of any assistance to the Management.

10. In such view of the matter, we do not notice any irregularity, illegality or irrationality in the order sought to be impugned in the instant appeals. However, we grant liberty to the Management to make a request to the learned Single Judge to decide the main petition as early as possible, having regard to the facts and circumstances of the case.

¹ 2015 (1) LLN 521 (Mad.)

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11. Resultantly, the writ appeals are dismissed with the above observation. Connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

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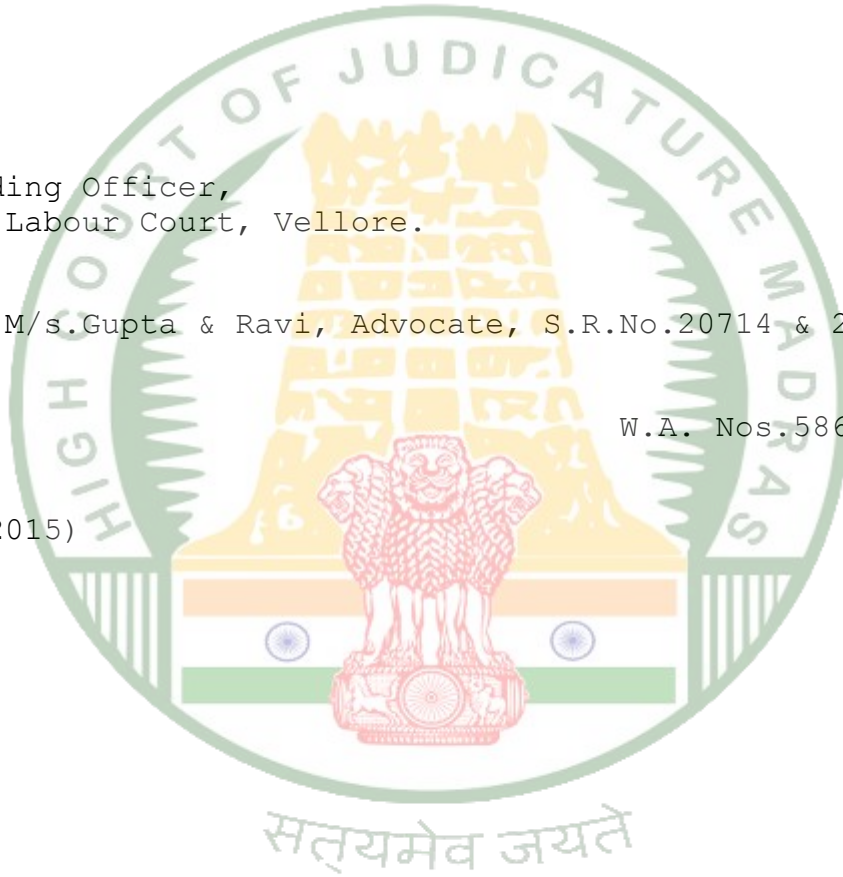
To

The Presiding Officer,
Principal Labour Court, Vellore.

+2cc's to M/s.Gupta & Ravi, Advocate, S.R.No.20714 & 20713

W.A. Nos.586 and 587 of 2015

CA(CO)
CA(29/04/2015)



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