

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 22.12.2015

Delivered on : 12.01.2016

CORAM:

THE HON'BLE MR. JUSTICE M.SATHYANARAYANAN

W.P.Nos.19138 of 2013 and 26553 of 2014

and M.P.No.2 of 2013

Puthiya Jananayaga Thozhilalar Munnai
Gestamp Sungwoo Hitech Employees Branch
Regn.No.43/TVR
No.110/63, N.S.K.Salai
Kodambakkam,
Chennai 600 034

... Petitioner in both W.Ps.

Vs.

1.Government of Tamil Nadu,
Rep. by its Secretary,
Labour and Employment Department,
Fort St.George,
Chennai-600 009.

... 1st respondent in both W.Ps.

2.Joint Commissioner of Labour (Chennai)
O/o.Commissioner of Labour,
D.M.S. Compound,
Teynampet,
Chennai-600 006.

.. 2nd respondent in
W.P.No.19138 of 2013

3.Management,
Gestamp Sungwoo Hitech (Chennai) Pvt. Ltd.,
Survey No.488/2, Mannur Village,
Valarapuram Post,
Sriperumbudur Taluk-602 105,
Kanchipuram District.

.. 3rd respondent in
W.P.No.19138 of 2013
and 2nd respondent in
W.P.No.26553 of 2014

Prayer in W.P.No.19138 of 2013: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, forbear the 3rd respondent from altering the service conditions of the members of the petitioner Union whose names are given in the Annexure to the affidavit filed in support of the writ petition in the manner including discontinuance of service or transferring or failing to provide employment in any manner without getting permission under Section 33 of the Industrial Disputes Act, 1947, in the Industrial Disputes raised by the petitioner which is pending conciliation before the 2nd respondent as dispute No.D/2556/2013 regarding charter of demand and additional charter of demand and further direct the 2nd respondent to conciliate and effect settlement and if no settlement is forthcoming to submit failure report under Section 12(4) of the Industrial Dispute Act and in-turn direct the 1st respondent to refer the dispute for adjudication before the competent Industrial Adjudicator.

Prayer in W.P.No.26553 of 2014: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the concerned records from the first respondent, quash the G.O.(D).No.370, Labour and Employment (A2) Department issued by the 1st respondent dated 20.08.2014 and consequently direct the first respondent to refer the demand Item No.1, 2, 3, 11, 13A, 13C, 13D, 13E, 13F, 13G, 13H, 14, 15, 16, 17, 18, 19, 20 and 21 in the dispute raised by the petitioner Union dated 23.05.2013 and 03.07.2013 for adjudication before the competent Industrial Adjudicator.

For Petitioner : Mr.Balan Haridas
in both W.Ps.

For Respondents : Mr.R.Vijayakumar,
Additional Government Pleader
for State Government
Mr.C.K.Chandrasekar,
for R3 in W.P.No.19138 of 2013
for R2 in W.P.No.26553 of 2014

COMMON ORDER

The issues to be adjudicated in these writ petitions are intertwined and hence, both the writ petitions are disposed of by this common order.

2. Facts narrated in brief for the disposal of these writ petitions are as follows:

W.P.No.19138 of 2013

2.1. The deponent of the affidavit is the Secretary of the Petitioner Union and according to him, the petitioner Union is registered under the Trade Unions Act, 1926 under Reg.No.43/TVR and the members of the petitioner Union are working in the third respondent Management which is a General Engineering and Fabrication Industry, doing the work of manufacturing of Car Door and Car Shell and there are about 180 permanent employees working in the Press Shop and about 96 permanent employees have been working in the Door Frame Section of the 3rd respondent Management and apart from that, there are about 1200 contract employees, who are termed as trainees, though doing regular work. The petitioner would state that the third respondent Management has entered into a settlement under Section 12(3) of the Industrial Disputes Act, 1947 [in short "I.D. Act"] through the Workers Committee, duly elected by the workmen of the Press Shop alone leaving out the employees working in the Door Frame Section, without attending or adhering to their long standing demands including revision of wages.

2.2. The petitioner Union, after its formation, sent a letter dated 15.05.2013 to the third respondent Management stating among other things that the employees working in the factory of the said Management are being elected as Office Bearers of the Union and requested to declare them as Protected Workman under Section 33 of the I.D. Act and it was also further informed to the third respondent Management that the petitioner Union is interested in Industrial Peace and is likely to settle all the disputes and it is through negotiation and since it was not acceded to, a decision has been taken to raise dispute regarding charter of demands and accordingly, the dispute was raised before the Assistant Commissioner of Labour (Conciliation) I, Irrungattukottai, Sriperumbudur and the said official took the decision on file and issued a notice dated 23.05.2013 for holding conciliation task scheduled to be held on 05.06.2013 and the said proceedings has been taken over by the second respondent. The petitioner Union would further state that the third respondent Management, after becoming aware of the same, started harassing the employees by transferring them deliberately and in this regard, the petitioner Union has given a letter dated 28.05.2013 calling upon the third respondent Management to cancel the illegal transfer orders issued and since no decision was taken, the petitioner Union approached the Assistant Commissioner of Labour (Conciliation) I, Sriperumbudur on 31.05.2013 with regard to the their request for declaration of Protected Workman and in the interregnum, the third respondent has started shifting machinery to its associate company, namely SGH and the petitioner Union has written letter to the third respondent Management not to do so.

2.3. The petitioner would aver that the third respondent, in order to avoid, conciliation proceedings, did not attend the conciliation meeting initiated on the charter of demands on 05.06.2013 and instead chose to make allegations in the form of letter dated 04.06.2013 against the employees working in the Door Frame Section. The third respondent also transferred further employees deliberately and sent employees to other companies without any requirement as if they are on duty and made them to run from pillar to post and that apart, some of the employees were deliberately shifted from production and in their place, contract labour, casual labour and trainees have been posted for regular production, though they have no knowledge in the said line of activities, generally resulting in low production/output. The management wanted to shift the blame with regard to low production on the employees by citing the reason of 'go slow' working, which is nothing but illegal. The third respondent Management, in order to stifle the legitimate Trade Union activities, has also approached the Sub-Court, Kancheepuram and obtained an order of injunction in I.A.No.441 and 442 of 2013 in O.S.No.108 of 2013, restraining the employees from demonstrating within 100 meters of the company premises and also from ingress and egress of employees who want to work and a counter affidavit has been filed and the applications are pending.

2.4. The petitioner Union also raised additional demands on 03.07.2013 demanding among other things that the employees who are working and termed as Trainees, should be made permanent employees of the company and to implement the provisions of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 [in short "Permanent Status to Workmen Act"]. The third respondent Management, in order to wreak vengeance on account of the above said activities of the petitioner Union, has terminated the employment of one employee on 11.06.2013, 12 employees on 24.06.2013, 3 employees on 26.06.2013, 11 employees on 04.07.2013 and 10 employees on 05.07.2013, in all 36 employees were terminated on 05.07.2013 and further 7 employees were terminated on 08.07.2013. The orders of termination came to be passed on the pretext that their training and performance is not satisfactory. It is the stand of the petitioner Union that all the 43 employees have not been imparted any training right from the day one, as they already have sufficient experience in Door Frame Work and they have been denied employment only because they formed Union and raised dispute regarding charter of demand and out of total membership of 96 employees, 44 have been now denied employment without any basis, though they have been working for the period from 1 to 3 years. The third respondent Management, that apart, has also transferred as many as 25 employees to a new job in which they are not trained and some of them were deputed to a new employer under the guise of 'on- duty' job and instead of

negotiating with the petitioner Union to resolve the disputes amicably, the third respondent Management took a wrecking attitude and choose to terminate the services of the members of the petitioner Union, though conciliation proceedings are pending. Hence, the petitioner Union came forward to file this writ petition.

2.5. The writ petition was admitted on 12.07.2013 and vide interim order passed on that day in M.P.No.1 of 2013, this Court has passed the following interim order:

"The petitioner Union raised an Industrial Dispute on various issues including the permanency and the dispute is pending conciliation before the second respondent. There is a statutory ban under Section 33 of the Industrial Disputes Act for dismissing a workman on the issue, if the conciliation is pending, without getting prior permission from the Conciliation Officer. It is their contention that the persons for whom permanency is sought for, if the employer terminates them, making Industrial Dispute infructuous, this Court has to intervene.

In these circumstances, there will be an order of interim injunction restraining the third respondent from discontinuing the services of the workmen whose dispute relating to permanency is pending before the second respondent, without getting prior permission from the Conciliation Officer under Section 33 of the I.D. Act. Notice."

2.6. The respondents 1 and 2 had filed their counter affidavit stating among other things that conciliation proceedings were held by the Assistant Commissioner of Labour (Conciliation) I, Sriperumbudur and the Conciliation Failure Report under Section 12(4) of the I.D. Act have been recorded and it has been sent to the parties to the dispute, vide letter dated 31.10.2013. It is further stated in the counter affidavit that the third respondent did not file any petition for permission or for approval under Section 33(2) of the I.D. Act and further took a stand that in the event of violation of any such provision, remedy available to the workmen is two-fold to move for punishment under Section 33A or under Section 10 of the I.D. Act. It is further stated by them that insofar as the dispute raised by the petitioner Union, vide letter dated 23.05.2013, it is pending before the second respondent.

2.7. The third respondent Management has filed a counter affidavit and filed M.P.No.2 of 2013 to vacate the interim order dated 12.07.2013. It is stated by the third respondent that the issues relating to transfer of employees, service condition of

trainees and issues relating to termination of 42 employees are only to be adjudicated before the Forums created under the I.D. Act and therefore, the writ petition is not maintainable. Insofar as the merits of the case is concerned, the third respondent would contend that since it is engaged in the business of manufacture of car body parts for companies like Hyundai Motors, Nissan, Ford etc., it has been declared as public utility service by the Government of Tamilnadu, vide G.O.No.256 dated 10.08.2012. The grievance expressed by the Workers Committee of the third respondent has been considered and a settlement under Section 12(3) of the I.D. Act came into being on 19.03.2013, in and by which substantial wage increase and other benefits have been conferred on the employees and it was in force for a period of one year from 01.04.2012 to 31.03.2013 and on the expiry of the settlement, the Committee has given fresh charter of demands and negotiations are on between the parties and since the earlier settlement dated 19.03.2013 has not been terminated or superseded in the manner known to law, the services conditions of the permanent employees are still governed by the earlier settlement dated 09.03.2013. The third respondent would further state that it is having Certified Standing Orders for its establishment and it has also engaged persons as trainees and probationers for a specified period of time and depending upon the performance of the trainees and probationers, they are either confirmed in service or directed to leave the company, by giving a training completion certificate.

2.8. It is the stand of the third respondent that the petitioner sent a letter dated 16.05.2013 to them stating about the election of office bearers of the Union and also conferment of status of 'Protected Workmen' and since, it is not a recognised Union and did not have substantial membership of the employees and further taking into consideration that valid settlement is subsisting, thought fit not to respond to the same and hence, the Petitioner Union raised a dispute on 31.05.2013 regarding grant of status of 'Protected Workmen' to their office bearers. The Petitioner Union also raised the following demands:

- (a) Recognition of the Union by the Management and to provide them an office room in the third respondent establishment;
- (b) Increase in wages and other benefits given to the employees;
- (c) Contract employees and trainees should not be involved in direct production work;
- (d) To make at least 25% of the trainees as permanent employee.

2.9. The third respondent took a stand that in terms of the Certified Standing Orders, the Management is entitled to engage persons as trainees and probationers for a fixed period of time

and once the contract of traineeship or contract of probation comes to an end, it is the prerogative of the Management to confirm such trainees/probationers in service and determine the contract of traineeship or probation, as the case may be and in that event, the termination of trainees or probationers on account of non-renewal of the contract of employment does not amount to retrenchment in terms of Section 2(oo)(bb) of the I.D. Act. Insofar as the allegation of termination of employment of 48 persons are concerned, it is stated by the third respondent that out of the said persons, one person, namely Thiru.Angudoss was not in service on the date of termination and ceased to be a probationer on 29.06.2013 and as far as the remaining 47 persons are concerned, 14 persons have completed their probationary period and in respect of 28 persons, probationary period is yet to be completed and the remaining 5 persons are engaged as trainees and their traineeship is yet to be completed and on account of the said fact, coupled with the terms of the Certified Standing Orders, the third respondent is having discretion to determine the contract of traineeship or probation upon completion of the period, as the case may be. Therefore, the question of seeking permission under Section 33(1)(a) of the I.D. Act does not arise at all and further there is no alteration of service conditions of probationers or being dismissed for any misconduct.

2.10. The third respondent would further contend that after formation of the Union, employees who have become members, started adopting 'go-slow' tactics. The allegations regarding shifting of machineries and engagement of workers in sister concern, it is contended by the third respondent that the question of according permanent status does not arise at all for the reason that trainees are engaged in terms of Certified Standing Orders and in law, they are entitled to terminate the service as trainee as and when contract of traineeship comes to an end and further that the provisions of Tamil Nadu Industrial Establishments (Conferment of Permanent Status) Act, 1981 are not applicable to the trainees and hence, prayed for vacating of the interim orders and dismissal of the writ petition.

2.11. The petitioner, in response to the counter affidavit of the third respondent Management, filed a reply, reiterating their stand and would further contend that the Workers committee, which is existing, is only in respect of Door Frame Section and the petitioner Union represent majority of the employees working in the Press Shop and the third respondent Management did not disclose anything about the existence of Certified Standing Orders. The Petitioner Union denied the allegation about 'Go-Slow' tactics adopted and sabotaging on the part of the members of the Petitioner Union and took a specific stand that all the 43 employees were arbitrarily terminated for the reason that they are not the members of the Petitioner Union

and an individual employee raised a dispute under Section 2A of the I.D. Act and after conciliation, it ended in failure and all the employees are in the process of approaching the Labour Court.

W.P.No.26553 of 2014

2.12. The first respondent, on receipt of the Conciliation Failure Report dated 26.05.2014 sent by the second respondent, has considered the same and further taking into consideration the proceedings of the Commissioner of Labour dated 04.07.2014, passed an order in G.O.(D).No.369, Labour and Employment Department dated 20.08.2014 referring the demands to the Industrial Tribunal for adjudication and vide G.O.(D).No.370 dated 20.08.2014 rejected the request for making a reference in respect of remaining demands/claims made by the Petitioner Union and challenging the legality of G.O.(D).No.370 dated 20.08.2014, came forward to file this writ petition.

2.13. The petitioner would contend that the impugned Government Order declining the request of 19 demands raised by them, has failed to perform its statutory obligation in terms of Section 10 of the I.D. Act and virtually chose to adjudicate the disputes and the same is unsustainable for the reason that the power to refer the dispute for reference is only an administrative Act. It is further stated by the petitioner that the act of the first respondent in declining to refer the dispute was without notice and hearing and is in gross violation of the principles of natural justice and hence, prays for setting aside the said Government Order with a further direction to refer the same before the competent industrial adjudicator.

4. Mr.Balan Haridas, learned counsel appearing for the petitioner, made the following submissions:

4.1. The third respondent Management, pendency of the conciliation proceedings, started harassing the employees who are the members of the petitioner Union by transferring them to some other departments in which they do not have any work experience and also sent some of them to other companies without any requirement and adding fuel to the fire, terminated 43 employees on 11.06.2013, 24.06.2013, 26.06.2013, 04.07.2013, 05.07.2013 and 08.07.2013 respectively and out of total number of 96 employees, 44 have been denied employment without any basis and they have been working for the period ranging between 1 to 3 years.

4.2. Section 33(1)(b) mandates that during the pendency of any conciliation proceeding before conciliation officer or a Board or of any proceeding before an Arbitrator or a Labour Court or

Tribunal or National Tribunal in respect of an industrial dispute, no employee shall for any misconduct connected with the dispute, discharge or punish, whether by dismissal or otherwise, any workmen concerned in such dispute, save with the express permission in writing of the authority before which the proceeding is pending and if an employee contravenes the provisions of Section 33 during the pendency of the proceedings, the employee, aggrieved by the said contravention, shall make a complaint in accordance with Section 33A of the I.D. Act and the remedy under Section 33A cannot be termed as efficacious remedy for the reason that the Labour Court or other authorities, after adjudication, shall submit the award to the appropriate Government and it is a long term process and in the light of the mala fide acts exhibited by the Management in transferring the members of the petitioner Union to some other departments and to their sister concern and also terminating most of the members of the petitioner Union, undermined the purport and spirit of the Industrial Disputes Act and as such, in the facts and circumstances of the case, the aggrieved persons need not avail the alternative remedy under Section 33A(ii) of the I.D. Act.

4.3. Industrial Disputes Act, 1947 is in the nature of welfare legislation and in the light of the scope and purport of the Act, this Court can pass appropriate orders to protect the interest of the workmen against unreasonable, unlawful and illegal acts of the mighty Management and this Court is vested with such a power in exercise of its extraordinary original jurisdiction under Article 226 of the Constitution of India.

4.4. The acts of the third respondent are malice in law as they want to circumvent the statutory provisions citing the reason of availability of alternative remedy and the said stand is per se illegal and unsustainable in law.

4.5. Insofar as the impugned order passed by the first respondent in expressing disinclination to refer most of the disputes for adjudication, which is the subject matter of challenge in W.P.No.26553 of 2014, it is the submission of the learned counsel appearing for the petitioner that the said order is administrative in nature and it should stand the test of reasonableness and the sole remedy available to the aggrieved workmen, is to approach the competent

authority/forum for vindication of their rights and the said right is sought to be curtailed even by the first respondent by disinclining to make reference.

5. The learned counsel appearing for the third respondent would contend that for conferring permanent status, admittedly the petitioner Union has approached the authorities constituted under the provisions of Conferment of Permanent Status Act and the said fact has been suppressed in both the writ petitions. It is the further submission of the learned counsel appearing for the third respondent that the filing of W.P.No.19138 of 2013 have also been suppressed in the second writ petition and since the said Act is willful and deliberate, the petitioner is not entitled to get any indulgence before this Court and hence, on the sole ground, the interim order granted in W.P.No.19138 of 2013 is to be vacated and both the writ petitions are liable to be dismissed. It is the further submission of the learned counsel appearing for the third respondent that the terminated employees are trainee engineers and they will not come under the category of workmen and in terms of Certified Standing Orders, right is vested with the Management to terminate their services and they also can be transferred to some other department or sister concern of the third respondent also. Insofar as the claim made by the office bearers of the petitioner Union that they should be declared as 'Protected Workmen', it is the submission of the learned counsel appearing for the third respondent that their Union is not at all recognized and though earlier settlement entered into between the Workers Committee and the Management expired, only a new settlement coming into the place and the terms of the earlier settlement would continue to be in operation. As regards challenge made to G.O.(D).No.370 of the first respondent dated 20.08.2014, the learned counsel appearing for the third respondent would contend that declining the reference is an administrative act and the first respondent has also assigned reasons as to why in respect of certain demands it has not inclined to make a reference and insofar as G.O.(D).No.369 in which reference has been made in respect of certain demands made by the petitioner Union, though it has been numbered as I.D.No.30/2014, the petitioner Union did not chose to cooperate for its early disposal and hence, it was dismissed for non-prosecution on 06.01.2015 and though restoration petition has been filed by the petitioner Union with delay, the said industrial dispute is yet to be restored and the said act also exposes unreasonable conduct of the Petitioner Union, which is only interested in halting the activities of the third respondent company.

6. The learned counsel appearing for the third respondent also took a legal plea that W.P.No.19138 of 2013 is not at all maintainable for the reason that remedy is sought against the third respondent, which is a private entity and since it does

not perform any statutory duty and public function, the writ petition is not maintainable against any act of the third respondent and would further contend that termination of the employees at the end of the deputed period is not a retrenchment in terms of Section 2(oo)(bb) of the I.D. Act and Section 33 won't be attracted in the facts and circumstances and hence, prays for dismissal of the writ petition. The learned counsel appearing for the third respondent, in support of his submissions, placed reliance upon the following decisions:

(i) Pavanendra Narayan Verma v. Sanjay Gandhi PGI of Medical Sciences and Another [(2002) 1 SCC 520]

(ii) Rourkela Shramik Sangh v. Steel Authority of India Ltd. and Another [(2003) 4 SCC 317]

(iii) P.T.Rajan v. T.P.M.Sahir and Others [(2003) 8 SCC 498]

(iv) Deoraj v. State of Maharashtra and Others [(2004) 4 SCC 697]

(v) Prestige Lights Ltd. v. State Bank of India [(2007) 8 SCC 449]

7. The learned counsel appearing for the petitioner, in response to the submission made by the learned counsel appearing for the third respondent would submit that since the provisions of the I.D. Act have been violated by the third respondent with absolute impunity, this writ petition is maintainable. It is the further submission of the learned counsel appearing for the petitioner that there is no suppression of material fact with regard to the invocation of the provisions of Conferment of Permanent Status Act for the reason that the remedy under the I.D. Act is wide in nature, wherein evidence can be taken and detailed adjudication can be made, whereas under the Conferment of Permanent Status Act, the proceedings are summary in nature and even for the sake of arguments, the fact of approaching the authority constituted under the Permanent Status Act has not been stated, it would not amount to deliberate suppression of material fact and taking into consideration the welfare of the workers and the purport of the I.D. Act, this Court is entitled to mould and grant relief. It is further contended by the learned counsel appearing for the petitioner that though the order declining the reference is an administrative act, still the first respondent is expected to exercise its power conferred on them by the I.D. Act in a fair, reasonable and equitable manner, but unfortunately it has failed to exercise its jurisdiction in that way, but acted arbitrarily to deny even the basic right of the workmen. The learned counsel appearing for the petitioner, in support of his submissions, placed reliance on the following decisions:

- (i) Lokkaju Satyanarayana v. Majati Venkatarattamma and another [1951 1 MLJ 477]
- (ii) The Bhavnagar Municipality v. Alibhai Karimbhai and Others [(1977) 2 SCC 350]
- (iii) Nirthiliya and Ors. v. Safire Theatre, Madras and another [1990 (2) LLN 4]
- (iv) Cheran Transport Employees' Union, Kattor, Coimbatore v. Government of Tamil Nadu and Another [CDJ 1999 MHC 247]
- (v) Jaipur Zila Sahakari Bhoomi Vikas Bank Ltd. v. Ram Gopal Sharma and Others [(2002) 2 SCC 244]
- (vi) Anaimalai National Estate Workers Union, Valparai and Others v. Planter's Association of Tamil Nadu, Coimbatore and Others [2002 (4) L.L.N. 530]
- (vii) Federal Bank Ltd. v. Sagar Thomas and Others [(2003) 10 SCC 733]
- (viii) Superintending Engineer, Vellore Electricity Distribution Circle, Vellore and Others v. Inspector of Labour, Perambalur and Others [2004 (3) L.L.N. 598]
- (ix) Kalabharati Advertising v. Hemant Vimalnath Narichania and Others [(2010) 9 SCC 437]
- (x) Akalakunnam Village Service Cooperative Bank Limited and Another v. Binu N. and Others [(2014) 9 SCC 294]
- (xi) Oil and Natural Gas Corporation Limited v. Petroleum Coal Labour Union and Others [(2015) 6 SCC 494]
- (xii) Vipulbhai M. Chaudhary v. Gujarat Cooperative Milk Marketing Federation Limited and Others [(2015) 8 SCC 1]
- (xiii) Order dated 20.04.2004 made in W.P.Nos.3987 of 2001 and 19263 of 2002
- (xiv) Order dated 18.04.2009 made in W.A.No.2560 to 2579 of 2002
- (xv) Order dated 30.09.2011 made in W.P.No.27517 of 2009

(xvi) Order dated 04.09.2012 in W.P.No.22067 of 2012

(xvii) Order dated 18.10.2012 made in W.P.No.24847 of 2006

(xviii) Order dated 01.12.2015 made in W.P.No.8923 of 2015

8. This Court paid it's best attention and anxious consideration to the rival submissions and also perused the materials placed before it and also considered the judgments relied on by the respective learned counsel appearing for the parties.

9. The following issues arise for consideration:

(A) Whether the writ petitions are maintainable?

(B) Whether the writ petitioner has to invoke Section 33A(ii) of the I.D. Act?

(C) Whether the writ petitioner has deliberately suppressed any material fact ?

(D) Whether the impugned order in G.O.(D).No.370 of the first respondent dated 20.08.2014 declining to make reference in respect of some of the demands is unsustainable?

(E) To what reliefs, the petitioner is entitled?

Issue Nos. A & B

10. In *Anaimalai National Estate Workers Union v. Planters' Association of Tamil Nadu, Coimbatore and Others* [2002 (4) L.L.N. 530] issuance of Writ against private individuals/company in respect of change in service conditions came up for consideration and the learned Judge, after referring to very many judgments of the Hon'ble Supreme Court as well as this Court, held as follows:

"31.If the introduction of the Industrial Disputes Act was a product of social evolution and was meant to meet the changes in the society, throwing society into chaos and confusion, I fail to appreciate how to term the Industrial Disputes Act as a mere legislation dealing with only personal or individual rights and to hold that no public duty was involved in the proceedings under the Act. It is true that in a case of a dispute between a single workman and the management, no public interest would be involved. But in a case of the present type, which involves the

question of wages due to thousands of workers and the potential dangers to which the society would be exposed if their grievances are not sorted out, definitely the issue affects public interest and a corresponding public duty is cast upon both the management and the labour to ensure public peace. It is also a fact that on the very same issue, peace, law and order in the areas where the Tea estates are located have been greatly affected and public peace, tranquility had been very much disturbed. The public interest and public duty involved is as much as that of violation of the Pollution Control Act, which has been pointed out by the Supreme Court as an instance which would justify invocation of Article 226 of the Constitution of India, notwithstanding the fact that the respondent may be only a private individual and not being involved in the discharge of any public duty, vide VST.INDUSTRIES case. [2001 (1) L.L.N. 786]

32. In the very same judgment of the Constitution Bench cited above, the Supreme Court went further to point out that industrial disputes could affect large groups of workmen and employees arrayed on opposite sides on certain common issues such as wages, bonus etc., and observed as follows:-

"Such widespread extension of labour unrest is not a rare phenomenon but is of frequent occurrence. In such a case, even an industrial dispute in a particular business becomes a large scale industrial dispute, which the Government cannot afford to ignore as a minor trouble to be settled between particular employer and workman."

33. In BALLARPUR COLLIERIES CO. v. PRESIDING OFFICER, DHANBAD (1972 (2) S.C.C., 27), the Supreme Court dealt with the scope of the Industrial Disputes Act and held as follows:-

"In this connection it has to be borne in mind that proceedings of industrial adjudication are not considered as proceedings purely between two private parties having no impact on the industry as such. Such proceedings involve larger public interest in which the industry as such (including the employer and the labour) is vitally interested. The scheme of the law of industrial adjudication designed to promote industrial peace and harmony so as to increase production and help the growth and progress of national economy has to be considered in the

background of our constitutional set-up according to which the State has to strive to secure and effectively protect a social order in which social, economic and political justice must inform all institutions of national life and the material resources of the community are so distributed as best to sub-serve the common good."

In the said decision, the learned Judge has held that in the event of gross violation of any statutory or public duty, Writ can be issued even against private individual, if the issues relate to public duty or public interest.

11. In *Federal Bank Ltd. v. Sagar Thomas and Others* [(2003) 10 SCC 733], the facts of the case would disclose that the respondent was an employee of the appellant, namely Federal Bank Ltd. and challenging the order of dismissal from service, he filed the writ petition and the learned Judge allowed the writ petition holding that the writ petition is maintainable and challenging the same, appeal was filed and it was also dismissed after observing that the learned Judge shall decide the writ petition on merits and hence, Federal Bank has filed a Special Leave Petition before the Hon'ble Supreme Court and after admission, it was converted as Civil Appeal. It is relevant to extract para 27 of the said judgment:

"27. Such private companies would normally not be amenable to the writ jurisdiction under Article 226 of the Constitution. But in certain circumstances a writ may issue to such private bodies or persons as there may be statutes which need to be complied with by all concerned including the private companies. For example, there are certain legislations like the Industrial Disputes Act, the Minimum Wages Act, the Factories Act or for maintaining proper environment, say the Air (Prevention and Control of Pollution) Act, 1981 or the Water (Prevention and Control of Pollution) Act, 1974 etc. or statutes of the like nature which fasten certain duties and responsibilities statutorily upon such private bodies which they are bound to comply with. If they violate such a statutory provision a writ would certainly be issued for compliance with those provisions. For instance, if a private employer dispenses with the service of its employee in violation of the provisions contained under the Industrial Disputes Act, in innumerable cases the High Court interfered and has issued the writ to the private bodies and the companies in that regard. But the difficulty in

issuing a writ may arise where there may not be any non-compliance with or violation of any statutory provision by the private body. In that event a writ may not be issued at all. Other remedies, as may be available, may have to be resorted to.

However, on the facts of the case, the Hon'ble Supreme Court of India found that disciplinary action initiated by the appellant Bank does not amount to enforcement of statutory duty on the part of the Bank and therefore, allowed the appeal.

12. In Akalakunnam Village Service Cooperative Bank Limited and Another v. Binu N. and Others [(2014) 9 SCC 294], appointments made in violation of Circulars issued under Rule 182(5) of the Kerala Cooperative Societies Rules came up for consideration and it has been held that the impugned notification issued by the appellant Cooperative Bank is clearly in violation of guidelines issued as per the Circulars and thereby, writ petition would certainly lie against it.

13. The learned counsel appearing for the third respondent made a submission that the judgment rendered by this Court in Anaimalai National Estate Workers Union v. Planters' Association of Tamil Nadu, Coimbatore and Others [2002 (4) L.L.N. 530], can be distinguished for the reason that the matter in issue affects permanent workmen numbering 24,000 and temporary workmen 26,000 and taking into consideration the provisions of the statute, it was held that the writ petition is maintainable. But in the case on hand, the issue pertains to termination of very few workmen who are all members of the petitioner Union and since the third respondent is not performing any public duty, it is not amenable to writ jurisdiction. However, this Court is of the view that W.P.No.19138 of 103 is maintainable for the reason that the Hon'ble Supreme Court of India in the judgment in Federal Bank Ltd. v. Sagar Thomas and Others [(2003) 10 SCC 733] at para 27 observed that writ may be issued to private bodies or persons as there may be statutes which need to be complied with by all concerned including the private companies and quoted certain legislations like I.D. Act, Minimum Wages Act, Factories Act, Air (Prevention and Control of Pollution) Act, 1981 or the Water (Prevention and Control of Pollution) Act, 1974 etc. In Akalakunnam Village Service Cooperative Bank Limited and Another v. Binu N. and Others [(2014) 9 SCC 294], the Hon'ble Supreme Court of India held that in the event of statutory violation, writ petition is maintainable.

14. It is the specific stand of the writ petitioner that pending conciliation proceedings, services of its members, numbering 46 have been terminated without obtaining leave under Section 33(1)(b) and though it is open to the concerned

aggrieved persons to invoke Section 33A, it is not an effective alternative remedy in the light of the facts and circumstances of the case. Though it is contended by the learned counsel appearing for the third respondent that termination of trainees is not retrenchment as per Section 2(o)(bb) of the I.D. Act and as a consequence, Section 33 of the I.D. Act would not be attracted, this Court is of the prima facie view that in the facts and circumstances of the case, the petitioner need not invoke alternative remedy and also in the light of subsequent development namely passing of G.O.(D).No.370 dated 20.08.2014 passed by the Government.

15. Therefore, Issue Nos.A and B are answered in affirmative in favour of the writ petitioner.

Issue No. C

16. It is an admitted fact that jurisdiction of the Joint Director of Factories, Guindy has been invoked to confer permanent status to the workmen/employees in the services of the third respondent, which is pending adjudication. In W.P.No.19138/2013, the said fact has not been disclosed. It is the submission of the learned counsel appearing for the petitioner that the petitioner Union is having right to adjudicate the said dispute under Section 2(k) of the I.D. Act for the reason that the scope of adjudication under the said provision is wide and non-disclosure of the said fact was neither willful nor deliberate. Per contra, it is the submission of the learned counsel appearing for the third respondent that suppression on the part of the petitioner was deliberate and willful and as a consequence, it is not entitled to get any indulgence from this Court in exercise of its extraordinary original jurisdiction under Article 226 of the Constitution of India.

17. In S.J.S.Business Enterprises (p) Ltd., v. State of Bihar and Ors. [(2004) 7 SCC 166], issue relating to suppression of material fact came up for consideration and it is relevant to extract the following paras of the said judgment:

"13. As a general rule, suppression of a material fact by a litigant disqualifies such litigant from obtaining any relief. This rule has been evolved out of the need of the courts to deter a litigant from abusing the process of court by deceiving it. But the suppressed fact must be a material one in the sense that had it not been suppressed it would have had an effect on the merits of the case. It must be a matter which was material for the consideration of the court, whatever view the court may have taken. Thus when the

liability to income tax was questioned by an applicant on the ground of her non-residence, the fact that she had purchased and was maintaining a house in the country was held to be a material fact, the suppression of which disentitled her to the relief claimed. Again when in earlier proceedings before this Court, the appellant had undertaken that it would not carry on the manufacture of liquor at its distillery and the proceedings before this Court were concluded on that basis, a subsequent writ petition for renewal of the licence to manufacture liquor at the same distillery before the High Court was held to have been initiated for oblique and ulterior purposes and the interim order passed by the High Court in such subsequent application was set aside by this Court. Similarly, a challenge to an order fixing the price was rejected because the petitioners had suppressed the fact that an agreement had been entered into between the petitioners and the Government relating to the fixation of price and that the impugned order had been replaced by another order.

14. Assuming that the explanation given by the appellant that the suit had been filed by one of the Directors of the Company without the knowledge of the Director who almost simultaneously approached the High Court under Article 226 is unbelievable (sic), the question still remains whether the filing of the suit can be said to be a fact material to the disposal of the writ petition on merits. We think not. The existence of an adequate or suitable alternative remedy available to a litigant is merely a factor which a court entertaining an application under Article 226 will consider for exercising the discretion to issue a writ under Article 226. But the existence of such remedy does not impinge upon the jurisdiction of the High Court to deal with the matter itself if it is in a position to do so on the basis of the affidavits filed. If, however, a party has already availed of the alternative remedy while invoking the jurisdiction under Article 226, it would not be appropriate for the court to entertain the writ petition. The rule is based on public policy but the motivating factor is the existence of a parallel jurisdiction in another court. But this Court has also held in Chandra Bhan Gosain v. State of Orissa [(1964) 2 SCR 879] that even when an alternative remedy has been availed of by a party but not pursued that the party could prosecute proceedings under Article 226 for the same relief. This Court has also held that when a party has already moved the High Court under

Article 226 and failed to obtain relief and then moved an application under Article 32 before this Court for the same relief, normally the Court will not entertain the application under Article 32. But where in the parallel jurisdiction, the order is not a speaking one or the matter has been disposed of on some other ground, this Court has, in a suitable case, entertained the application under Article 32. Instead of dismissing the writ petition on the ground that the alternative remedy had been availed of, the Court may call upon the party to elect whether it will proceed with the alternative remedy or with the application under Article 226. Therefore, the fact that a suit had already been filed by the appellant was not such a fact the suppression of which could have affected the final disposal of the writ petition on merits.

15. In this case, admittedly, the appellant has withdrawn the suit two weeks after the suit had been filed. In other words, the appellant elected to pursue its remedies only under Article 226. The pleadings were also complete before the High Court. No doubt, the interim order which was passed by the High Court was obtained when the suit was pending. But by the time the writ petition was heard the suit had already been withdrawn a year earlier. Although the appellant could not, on the High Court's reasoning, take advantage of the interim order, it was not correct in rejecting the writ petition itself when the suit had admittedly been withdrawn, especially when the matter was ripe for hearing and all the facts necessary for determining the writ petition on merits were before the Court, and when the Court was not of the view that the writ petition was otherwise not maintainable."

18. In *Nirchiliya and Ors. v. Safire Theatre, Madras* and another [1991 (1) LLJ 111], moving to another forum after abandoning the claim, came up for consideration and it has been held that remedy could be worked out in either of the forums i.e., before the authority constituted under the Madras Shops and Establishments Act, 1941 or before the Labour Court.

19. In *Superintending Engineer, Vellore Electricity Distribution Circle, Vellore and Others v. Inspector of Labour, Perambalur and Others* [2004 (3) L.L.N. 598] challenge was made to the order conferring permanent status of the workers of the Tamil Nadu Electricity Board came up for consideration and it is relevant to extract paras 35 and 36 of the said judgment as under:

"35. Therefore, I am unable to accept the submission made on behalf of the Board that the exercise of the power by the Inspector of Labour in conferring permanent status after holding necessary enquiries contemplated under S.5 read along with rule 6(4) should be construed as arrogating to himself the powers available to the other adjudicatory forums created under the provisions of the Industrial Disputes Act, 1947. It will have to be stated that while the exercise of powers vested with the Inspector under the provisions of the Act is summary in nature, the one under the provisions of the Industrial Disputes Act may be an elaborate one. Nevertheless the same does not mean that by exercising the power under the provisions of the Act the Inspector of Labour would be trespassing into the adjudication process contemplated under the provisions of the Industrial Disputes Act. In this context, if the judgment of the Supreme Court in Nirchiliya case [1990 (2) L.L.N. 4] (vide supra) is applied, it can be safely held that where there is no prohibition under the provisions of either the Industrial Disputes Act or the Act, exercise of the power in the manner in which it can be done by the Inspector of Labour under the Act cannot be found fault with. It will have to be stated that such an exercise would be well within the statutory limitations provided under the Act. In fact, in the above referred to judgment of the Hon'ble Supreme Court the question for consideration was whether the workmen who initially raised an industrial dispute under the Industrial Disputes Act and who did not pursue it till its logical end when chose to move the authority under the then Madras-Shops and Commercial Establishment Act, the Hon'ble Supreme Court held that in the absence of any prohibition under either of the enactments, such a course adopted by the workmen cannot be faulted. Therefore, applying the said ratio to the case on hand, it can be safely held that the concerned workmen here were placed in a better footing when they chose to straightway move the Inspector of Labour under the Act, inasmuch as according to the workmen, having regard to the facts prevailing as on date, they were entitled for the conferment of permanent status as provided under the Act. If such a claim of the workmen was not factually maintainable, it was for the Board to have resisted the said claim with all available materials and could have convinced the Inspector of Labour as the claim ought not to have been countenanced. The Board having miserably failed to perform its duties in the manner expected of it, it cannot be now allowed to contend or

complain against the powers exercised by the Inspector of Labour which was within the provisions of the Act. In this context, if the judgment of the Division Bench of this Court in Metal Powder Company Ltd. Case [1985 (2) L.L.N. 738] (vide supra), is applied, then also it can be safely held that the Inspector of Labour was well within his jurisdiction in holding the proceedings in the manner it was held and in passing the order by directing the petitioner/Board to confer permanent status on the workmen.

36. The contention of the learned Additional Solicitor-General that the observation of the Division Bench in Para. 23 in stating that the proceedings under the Act are summary, that the statute does not make it final and if and when question arises as to whether the workman is entitled to certain benefits as a permanent workman and the claim is made on the basis of the decision of the Inspector, the other controversies can be properly determined in the appropriate proceedings, which may be taken either by the employer or by the workmen; supports the submission of the Board, that the scope and power of the Inspector was limited to the extent of inspecting the registers and issue directions for rectifications in the maintenance of such registers and not to the extent of giving any positive directions to confer permanent status cannot be accepted. I say so because when the abovesaid observations of the Division Bench has only suggested to the effect that after the conferment of permanent status, that may be directed to be made by the Inspector of Labour, when any question arises as to what kind of benefits are to flow from such conferment, then such controversies relating to the extent of the consequential benefits to be extended may have to be adjudicated upon at the instance of either the employer or the workmen before the appropriate forum. I am of the view that the abovesaid observations of the Division Bench cannot be taken to mean that the specific powers conferred on the Inspector of Labour under the provisions of the Act themselves are to be denied to the Inspector of Labour and that the whole issue as to whether a concerned workman should be conferred permanent status itself could again be agitated before some other adjudicatory forum much less the forum created under the Industrial Disputes Act. In my view, such an extreme proposition would negate the very purport of the enactment and would be doing violence to the intention of the Legislature which seeks to confer certain benefits as specifically stated in the objects

and reasons of the Act, especially when the relevant provisions conferring such powers with the authority under the Act, having been upheld by the Division Bench of this Court, which has also been confirmed by the Hon'ble Supreme Court."

In the light of the ratio laid down in the above cited decisions, this Court is of the view that non-disclosure of the fact of pendency of proceedings before the authority constituted under the Permanent Status Act, is not willful or deliberate suppression on the part of the writ petitioner. However, the writ petitioner having selected the forum under the I.D. Act, cannot simultaneously prosecute the proceedings before the authority constituted under Conferment of Permanent Status Act. Therefore, it has to elect as to the forum before which it wants to adjudicate the issue regarding conferment of permanent status. In the light of the submission made by the learned counsel appearing for the writ petitioner that the forum constituted under the I.D. Act is wider in nature, it has to press the said issue before the said forum only and not under the authority constituted under the provisions of Conferment of Permanent Status Act, as the proceedings are summary in nature.

20. Therefore, Issue No.C is answered accordingly.

Issue No.D

21. The standing orders of the third respondent were certified, vide proceedings of the Joint Commissioner of Labour dated 24.06.2008. Standing Orders 2(e) defines Employee or Workman and it means any person including Staff/an apprentice/casual employed in the Factory of Establishment coming under the purview of Section 2(s) of the Industrial Disputes Act. Standing Orders 3(2), 3(3), 3(4) and 3(5) defines Probationer, Temporary Workman, Casual Workman and Apprentice. Standing Order 14 speaks about Transfer and Promotion and Standing Order 20 speaks about Cessation of Employment which includes Termination, Discharge, Retirement and Resignation. As per Standing Order 20(I)(a), the services of a probationer are liable to be terminated during the period of probation or at the end of the period of probation, if not found satisfactory upto the expectation of the Management without giving any compensation or notice pay in lieu thereof. Standing Order 22 speaks about acts and omissions, constituting misconduct. The said standing orders came to be modified, vide proceedings of the Joint Commissioner of Labour, Chennai dated 09.05.2012. Clause 3.6 came to be introduced with regard to Trainee and the said Clause says that on completion of training, trainee may or may not be absorbed. Similarly under Clause 14.1. service of the workmen shall be liable to be transferred from any machine/section/department to another

machine/section/department as the case may be and he shall also be liable to be transferred to any place from one plant/branch/unit to another plant/branch/unit of the same company (establishment) whether in existence or to be set up at subsequent stage by M/s.Gestamp Sungwoo Hitech (Chennai) Private Limited and without affecting the status and wages and he shall not earn wages if he refuses to accept the transfer.

22. According to the learned counsel appearing for the petitioner, modification of the Standing Order is also in violation of the service conditions. However, this Court is not inclined to go into the same for the reason that it may involve adjudication on factual aspects. Similarly, this Court is not inclined to go into the claim made by the petitioner as to the regularization of the employees for the reason that the said issue also requires adjudication based on facts.

23. In Cheran Transport Employees' Union, Kattor, Coimbatore v. Government of Tamil Nadu and Another [CDJ 1999 MHC 247], the order of the Government in refusing to refer the industrial dispute for adjudication under Section 10(1) of the I.D Act on the part of M/s.Cheran Transport Corporation came up for consideration and the learned Judge found that the first respondent, namely the Government of Tamil Nadu has exceeded its jurisdiction in passing the impugned order and while exercising administrative powers under Section 10(1) of the I.D. Act, it cannot adjudicate disputes.

24. In W.P.No.27517 of 2009 (cited supra), challenge was made to the Act of the Management in discontinuing the services of the trainees without getting prior permission under Section 33 of the I.D. Act came up for consideration and pendency of the same, Conciliation Officer submitted failure report. The learned Judge has taken into consideration the judgment of the Hon'ble Supreme Court of India in Rashtriya Chemicals & Fertilizers Ltd., v. General Employees' Assn., [(2007) 5 SCC 273], which in-turn considered the judgment in Steel Authority of India Ltd. v. Union of India [(2006) 12 SCC 233], has directed the Government to take into consideration the failure report and pendency of the same, directed the maintenance of Status Quo. This court even prior to the said decision has passed orders dated 20.04.2004 in W.P.Nos.3987 of 2001 and 19263 of 2002 and order dated 18.10.2012 in W.P.No.24847 of 2006.

25. Therefore, incidental question arise for consideration is whether the first respondent, while declining to make a reference, has gone into the merits of the case?

26. In G.O.(D).No.370 dated 20.08.2014 passed by the first respondent, along with the Government Order enclosure has been made and a perusal of the same would disclose that detailed

reasons have been given, touching upon the merits of the claim and also as to the reasons for declining the reference.

27. In *Western India Match Co. v. Workmen* [Air 1070 SC 1205 = (1970) 1 SCC 225], the Hon'ble Supreme Court of India, after taking into consideration the decision in *State of Madras v. C.P.Sarathy* [1953 SCR 334] held that it was so held presumably because the Government cannot go into the merits of the dispute, its function being only to refer such a dispute for adjudication so that the industrial relations between the employer and his employees may not continue to remain disturbed and the dispute may be resolved through a judicial process as speedily as possible. It has been further held that discretion conferred on the Government was neither unfettered nor arbitrary.

28. In *Bombay Union of Journalists v. State of Bombay* [AIR 1964 SC 1617], the learned Judge identified two circumstances in which it would be incompetent for the Government to refuse to make a reference viz., (a) where the dispute raises question of law; and (b) where it involves disputed questions of fact, because both these circumstances fall within the province of the Tribunal. In the very same judgment, it has been held that it is mandatory for the Government to record and communicate the reasons to the parties concerned, where the dispute has been gone through conciliation and a failure report has been submitted and if the Government refuses to refer the dispute on extraneous grounds, irrelevant considerations or acts of mala fide, the party would be entitled to move the High Court for a Writ of Mandamus.

29. It has been held in a catena of decisions that the power of the Government in refusing to make a reference is subject to following conditions:

- (i) The claim is patently frivolous or vexatious; or
- (ii) It is clearly belated or, in other words, has become stale; or
- (iii) The dispute, if referred for adjudication, is likely to impact the general relations between the employers and the employees in the region adversely; and
- (iv) The matter is covered by a subsisting settlement or award.

30. This Court, while testing the legality of the impugned order in the light of the ratio laid down in the above cited decisions, is of the view that the first respondent while exercising the administrative act, had exhaustively gone into factual aspects also and the same is impermissible. It is also pertinent to point out at this juncture that in respect of some of the demands made under the very same charter of demands, the

Government was inclined to make a reference in G.O.(D).No.369 dated 20.08.2014, however, it is the submission of the learned counsel appearing for the third respondent that the said reference was taken in I.D.No.30/2014 and the petitioner Union allowed it to be dismissed for non-prosecution on 06.01.2015 and though application has been filed to restore the same with delay, it is not evincing keen interest in pursuing the matter. In the light of the said submission made by the learned counsel appearing for the third respondent, the petitioner Union, in order to show their bonafide, may take immediate and appropriate steps to restore I.D.No.30/2014 for adjudication on merits.

31. The learned counsel appearing for the third respondent has also placed reliance on the decision in Pavanendra Narayan Verma v. Sanjay Gandhi PGI of Medical Sciences and Another [(2002) 1 SCC 520], wherein it has held that language used in the order of termination that the work and conduct has not been found to be satisfactory, cannot be termed as ex facie stigmatic. However, this Court is of the view that whether the order of termination is simplicitor or stigmatic or whether the order of transfer to some other department or to its sister concern is deliberate/willful or not, cannot be adjudicated in these writ petitions and it is for the competent forum to do that exercise in the light of the quality of materials placed before it.

32. Incidental question also arise for consideration as to pendency of reference to be made, whether any interim order can be passed terminating any of the workmen?

33. As already pointed out, this Court in the order dated 20.04.2004 in made in W.P.Nos.3987 of 2001 and 19263 of 2002 and in the order dated 18.10.2012 made in W.P.No.24847 of 2006, has directed the maintenance of Status Quo insofar as who are continuing in service as on date are concerned, pendency of the reference of dispute before the competent forum. This Court, while entertaining W.P.No.19138 of 2013, has granted an order of ad-interim injunction in M.P.No.1 of 2013 on 12.07.2013, restraining the third respondent from discontinuing the services of the workmen whose dispute relating to permanency is pending before the second respondent without getting prior permission from the Conciliation Officer under Section 33 of the I.D. Act. Subsequently, under G.O.(D).No.369 dated 20.08.2014, reference has been made in respect of some of the claims and under G.O.(D).No.370 dated 20.08.2014, reference has been declined in respect of most of the demands. The Joint Commissioner of Labour, Chennai-6, has also sent the Conciliation Failure Report based on which the above cited two Government Orders came to be passed. Therefore, this Court is of the view that till the references made are adjudicated, the third respondent/Management shall maintain Status Quo as on the date of the interim order

dated 12.07.2013 made in M.P.No.1 of 2013 in W.P.No.19138 of 2013.

34. Since G.O(D).No.370 dated 20.08.2014 came to be passed, nothing survives for adjudication in W.P.No.19138 of 2013.

Issue No.5

35. In the light of the reasons assigned above, W.P.No.19138 of 2013 is to be closed and W.P.No.26553 of 2014 is to be allowed.

36. In the result,

(i) W.P.No.19138 of 2013 is closed. No costs.

(ii) W.P.No.26553 of 2014 is allowed and the impugned Government Order in G.O.(D).No.370, Labour and Employment (A2) Department dated 20.08.2014 is set aside and the first respondent is directed to refer the demand Item Nos.1, 2, 3, 11, 13A, 13C, 13D, 13E, 13F, 13G, 13H, 14, 15, 16, 17, 18, 19, 20 and 21 in the dispute raised by the petitioner's Union dated 23.05.2013 and 03.07.2013 for adjudication before the competent Industrial forum as expeditiously as possible and not later than six weeks from the date of receipt of such reference and the petitioner Union as well as the third respondent Management shall extend their maximum cooperation for the early disposal of the industrial dispute within a period of three months thereafter and till such disposal, Status Quo as prevalent at the time of passing of the interim order dated 12.07.2013 made in M.P.No.1 of 2013 in W.P.No.19138 of 2013, shall be maintained. No costs.

(iii) Consequently, connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar (CSV)
dt:27/01/2016

True Copy

Sub-Assistant Registrar

jvm

To

1.Secretary,

Government of Tamil Nadu,

Labour and Employment Department, Fort St.George,

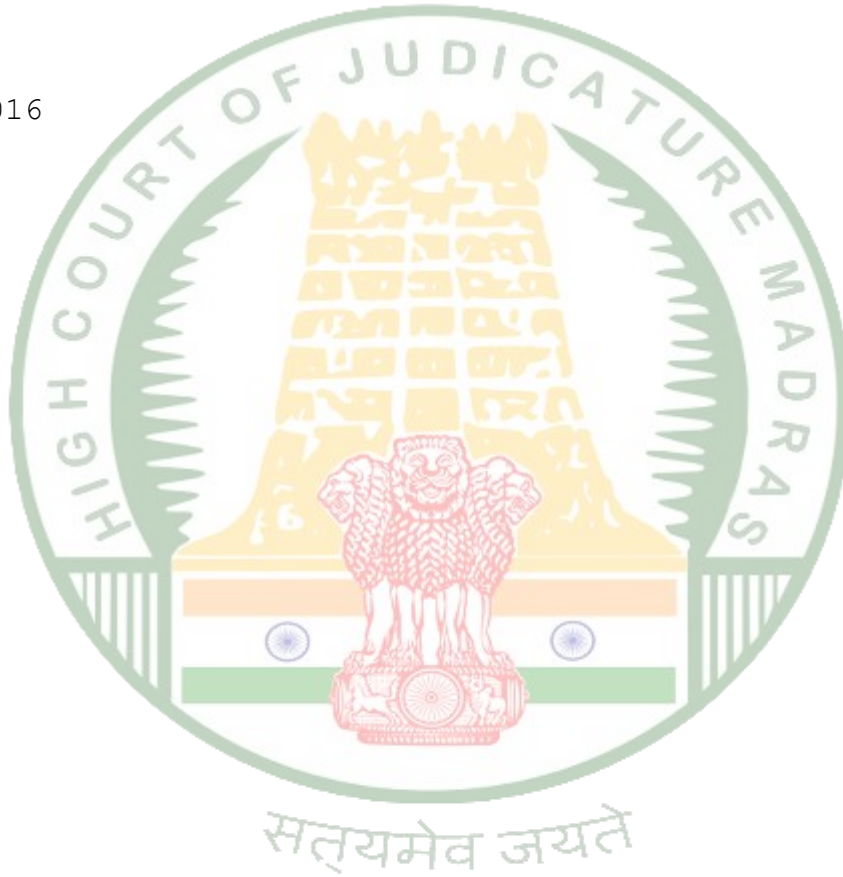
Chennai-600 009.

2.Joint Commissioner of Labour (Chennai)
O/o.Commissioner of Labour, D.M.S. Compound,
Teynampet, Chennai-600 006.

+1 cc to M/s.Balan Haridas, Advocate sr.2379
+2 ccs to M/s.C.R.Chandrasekar Advocates sr.2184 & 2185
+1 cc to Government Pleader High Court Madras-104
sr.2449

W.P.Nos.19138 of 2013 and
26553 of 2014

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