

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 18.09.2017

Pronounced on : 06.10.2017

Coram

THE HONOURABLE Mr. JUSTICE M.VENUGOPAL
AND
THE HONOURABLE Mr. JUSTICE P.D.AUDIKESAVALU

Contempt Petition No.2511 of 2015

in

W.A.No.167 of 2014

Workmen of MRF Plant, Thiruvottiyur
Rep. By its MRF Employees Union,
Through its General Secretary C.R.Prabakaran
Thiruvottiyur, Chennai.

.. Petitioner/1st Respondent

Vs.

Mr.Simon A.Panikar,
General Manager,
Rep. MRF Limited, Authorised Signatory
Thiruvottiyur Plant,
Chennai – 600 019.

..Respondent

Prayer: Petition filed under Section 11 of the Contempt of Courts Act, praying to punish the Respondent for having committed Civil Contempt for wilful disobedience of the order of this Court in W.A.No.167 of 2014 dated 02.07.2015.

For Petitioner

: Mr.V.Prakash
Senior Counsel

For Mr.K.Sudalaikannu

For Respondent

: Mr.R.Prabhakaran

ORDER**M.VENUGOPAL, J.****Preamble:**

The Petitioner/Union has preferred the instant Contempt Petition for wilful disobedience of the order passed by this Court dated 02.07.2015 in W.A.No.167 of 2014.

Petitioner's Contentions:

2.According to the Petitioner, it is the only Union in the Respondent/Factory and that the previous wage settlement entered into between the Management and the Union expired on 06.07.2013 and that the Union had placed the 'Charter of Demands' and negotiations were in progress. Moreover, a wage dispute is pending before the Industrial Tribunal, Chennai on the reference made by the Government of Tamil Nadu.

3.The Learned Senior Counsel for the Petitioner/Union contends that the Respondent/Management served a Notice under Section 9-A of the Industrial Disputes Act on 21.09.2013 proposing

to make certain changes relating to the conditions of service which have been in existence for decades together. In this connection, it is projected on the side of the Petitioner that the aforestated Notice bears the date as "20th" but the month is not stated. The said notice was proposed change with effect from 01.01.2014.

4.The Learned Senior Counsel for the Petitioner submits that proposed change pertaining to the conditions of service visualised grant of Earned Leave, only if the workmen works for 240 days in a calendar year, however, the Management, for decades together, was granting one day of Earned Leave for 20 days of working irrespective of the number of days worked in the year.

5.Advancing his arguments, the Learned Senior Counsel for the Petitioner proceeds to points out that the Petitioner/Union raised an Industrial Dispute on 26.09.2013 i.e., within 6 days of the service of notice under Section 9-A of the Industrial Disputes Act, 1947 objecting to the proposed change. That apart, the Union filed W.P.No.28244 of 2013 seeking commencement of Conciliation Proceedings and this Court was pleased to pass an order in the said Writ Petition on 10.10.2013 and in fact, the Conciliation Proceedings

begun on 08.10.2013 even prior to the dismissal of the Writ Petition.

6.The Learned Senior Counsel for the Petitioner brings it to the notice of this Court that the Conciliation Officer issued a letter of 25.10.2013 commencing the conciliation proceedings and posted the said proceedings on 10.11.2013. As such, it is the plea of the Petitioner that even before 01.01.2014 viz., the date on which the proposed change was to be given effect to, the Conciliation Officer commenced the conciliation proceedings with the result that the workmen had the protection of Section 33 of the Industrial Disputes Act, by which the Respondent/Management could not implement the change without obtaining prior permission of the Conciliation Officer in accordance with the provisions of Section 33 of the Industrial Disputes Act, 1947.

7.The Learned Senior Counsel for the Petitioner draws the attention of this Court that the Respondent/Management filed W.A.No.167 of 2014 as against the order dated 10.10.2013 passed in W.P.No.28244 of 2013 and this Court on 13.02.2014 granted interim stay of the order passed by the Learned Single Judge, which

was later modified as Status Quo as on 13.02.2014 by virtue of the order passed on 24.02.2014.

8.The prime stand of the Petitioner is that the Conciliation Officer had advised the Respondent/Management not to alter the existing conditions of service pending the Industrial Dispute through his letter dated 17.03.2014. Also, the grievance of the Petitioner/ Union is that the Respondent/Management had issued dismissal orders to workmen who had availed Earned Leave including the days they were entitled to under the existing conditions of service, prior to the issuance of notice under Section 9-A of the Industrial Disputes Act.

9.The Learned Senior Counsel for the Petitioner points out that the Petitioner/Union issued a Lawyer's Notice dated 02.07.2014 addressed to the Manager – HR and the General Manager of the Respondent requiring them to withdraw the dismissal order in respect of two workers and reinstate them into service and also for the credit of Earned Leave to those workers who had less than 240 days of attendance in the preceding year. Indeed, the Respondent/ Management gave a reply on 28.07.2014 addressed to the

Petitioner's counsel by taking a stand that by means of Status quo order granted by this Court on 13.02.2014, it would not credit the 'Earned Leave'.

10.The strenuous plea taken on behalf of the Petitioner/Union is that as on 13.02.2014 the conciliation proceedings were and still are pending and that the Respondent/Management had not filed any Application seeking permission to implement the proposed change under Section 33 of the Industrial Disputes Act. As such, the Respondent/Management cannot deprive the workers, the benefit of the existing condition of service based on the order of Status Quo granted on 13.02.2014, which Status Quo order preserved the conditions of service of workers from being changed pending the Writ Appeal.

11.In pith and substance, it is the primordial condition of the Petitioner/Union that the Division Bench of this Court in W.A.No.167 of 2014 on 02.07.2015 had, inter alia, passed an order by directing the Respondent/Management shall not implement the change of service, till the first hearing takes place before the Learned Single Judge on remand of the matter. Apart from that, the Respondent/

Management, in the aforesaid Writ Appeal Judgment, was given the liberty to file an Application before the Learned Single Judge seeking an appropriate relief, if so advised.

12. Further, it is represented on behalf of the Petitioner that the Respondent/Management had implemented the change in not granting Privilege Leave/Earned Leave as per existing practice i.e., one day Earned Leave for 20 days of working, irrespective of the total number of days worked. Therefore, it is the stand of the Petitioner that the conduct of the Respondent/Management in implementing the change in spite of the directions issued by this Court amount to wilful disobedience of the order passed by this Court and consequently, the Respondent/Management is liable to be punished for committing 'Civil Contempt'.

Respondent's Submissions:

13. Conversely, it is the contention of the Learned Counsel for the Respondent that after the grant of order of interim stay on 13.02.2014 in M.P.No.1 of 2014 in W.A.No.167 of 2014, which was later modified as "Order of Status Quo" on 24.02.2014, the

Respondent/Management had not implemented 'any change of service' and maintains the status and position, which prevailed as on 01.01.2014 and as such, the Respondent had complied with the order passed by this Court and therefore not flouted the order of this Court warranting contempt action.

14.The Learned Counsel for the Respondent submits that the Petitioner is making an endeavour to twist the factual aspect of the matter by an untenable equation of compulsion by insisting to grant concessionary privilege of earned leave provided to them much earlier to the implementation of change in service implemented by the Management.

15.The Learned Counsel for the Respondent proceeds to take an emphatic stand that the customary or concessional privilege of earned leave cannot be claimed as a matter of right because of the fact that giving effective implementation to a statute under Section 79 of the Factories Act, 1948 can be implemented and an implementation of a statute will not come within the ambit of Contempt.

16.The Learned Counsel for the Respondent draws the attention of this Court to the fact that the Petitioner/Union has filed the present Contempt Petition in a second round on the same set of facts and that the earlier Contempt Petition was closed by this Court, at the time of passing of the Judgment in W.A.No.167 of 2014.

17.The Learned Counsel for the Respondent submits that the Respondent/Management based on the order passed in W.A.No.167 of 2014, the Management took effective steps to decide the case on merits before the Learned Single Judge by filing an impleading Petition, but, however a specific direction to implement the change was not sought for by the Management.

18.The Learned Counsel for the Respondent projects an argument that since the Respondent/Management had not implemented any change of service till date, it had not moved any Application to continue to hold the position prevailed as on 24.02.2014 till date. Added further, it is represented on behalf of the Respondent that no action was taken by the Management in between the grant of Original Stay Order dated 13.02.2014, which

was subsequently modified into Status Quo on 24.02.2014 and as such, the Management had not implemented any change of service till date.

Conciliation and Conciliation Officer:

19.It is to be noted that Section 2(e) of the Industrial Disputes Act, 1947 defines "Conciliation Proceeding" meaning 'any proceeding held by a conciliation officer or Board under this Act'. As per Section 4 of the I.D. Act, 1947, a Conciliation Officer is appointed by the appropriate Government, by means of Notification in the Official Gazette and the Conciliation Officer is charged with the duty of mediating and promoting the settlement of Industrial Disputes.

Position of Section 9-A:

20.Indeed, Section 9-A of the Industrial Disputes Act, 1947, refers to 'Notice of any Change' in the conditions of service applicable to any workman in regard to any matter specified in Fourth Schedule of Industrial Disputes Act. In so far as the Section 9-A of the Act is concerned, a change in working hours can only be effected by issuing notice. As a matter of fact, Section 9-A of the

Act deals with the question whether the Management has a right to change the working hours but simply specifies the manner of change of hours by giving the requisite notice of change. In fact, the requirement of notice to a workmen would arise only if they are likely to be affected prejudicially.

21.It is to be remembered that a 'Notice of Change' under Section 9-A of the Act is an order in real term and takes effect on completion of 21 days. Certainly, a notice for change under Section 9-A of the Act is to be given for condition of service under Section 9-A read with Schedule IV of the Act.

Salient Features of the Conciliation Officers:

22.Section 11 of the Industrial Disputes Act, 1947 deals with 'Procedure and Power of Conciliation Officers, Boards, Courts and Tribunals'. Section 12 of the I.D. Act deals with 'Duties of Conciliation Officers'. Section 20 of the Act specifies 'the point of time at which the conciliation proceedings shall be deemed to have commenced and concluded'.

23. Section 11(3) of the Industrial Disputes Act, 1947 provides that the authorities specified therein shall have the same powers that are vested in a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908), when trying a suit, in respect of the matters, (a) enforcing the attendance of any person and examining him on oath; (b) compelling the production of documents and material objects; (c) issuing commissions for the examination of witnesses; (d) in respect of such other matters as may be prescribed. Moreover, every enquiry or investigation by a Board, Court, [Labour Court or Tribunal or National Tribunal], shall be deemed to be a judicial proceeding within the meaning of Sections 193 and 228 of the Indian Penal Code.

24. It cannot be forgotten that there is no provision either in the Industrial Disputes Act or in the Rules providing for holding any preliminary enquiry to enter upon the conciliation proceedings. Really speaking, if the parties attend any proceedings held by a Conciliation Officer in compliance with the notice served by him, such proceedings ought to be necessarily 'Conciliation Proceedings'. The Conciliation Officer is undoubtedly competent to deal with all

disputes brought to his notice whether existing at the commencement of conciliation proceedings or emanating during the pendency of such proceedings.

Role of Conciliation Officers:

25. In Law, the functions of Conciliation Officers are only the conciliatory in character and not adjudicatory one. A Conciliation Officer is a friend of respective parties and as an advisory role mainly with a view to arrive at a fair and just settlement. The Conciliation Officer can take up the matter for conciliation not only when there is an 'Existing' Dispute but also when a dispute is apprehended. The said 'Existing' or 'Apprehended' dispute must be an Industrial Dispute as per Section 2(k) of the Industrial Disputes Act. A Conciliation Officer is to adhere to the procedure indicated by Section 12 of the I.D. Act or prescribed by the relevant rules. His duties are only an administrative and purely ancillary to industrial adjudication. In fact, a Conciliation Officer is not competent to reject the demand of workmen or consider the merits of the dispute, but is duty bound to send a report to the Government.

Importance of Failure Report:

26.The 'Failure Report' under Section 12(4) of the Act is very vital document to be considered by an appropriate Government for determining the questions, whether there is a case for reference whether it is expedient to make a reference or not. A failure of Conciliation Report is to enable the Government to be in possession of all material facts for determining as to what course it must adopt as per Section 12(5) of the Act in making or refusing to make a reference. After the reference of the dispute to adjudication, a Conciliation Officer cannot begin conciliation proceedings whether he has to commence such proceedings for the first time or after submitting the failure report. Section 12(5) of the I.D. Act contains a dimorphism of power viz., the power to make a reference and the power of refusal to make a reference. The aspect of making a reference will arise after the conciliation proceedings were undergone and the Conciliation Officer had submitted a 'Failure Report'.

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Scenario of Sections 31 & 33 of the I.D. Act:

27.The object of Section 33 of the I.D. Act, 1947 is that the 'conditions of service' will remain unchanged is meant to ensure the

health, growth and development of Trade Union movement. Under Section 33 of the Act, an Employer is required to seek approval or permission of authority where dispute is pending.

28. A right of an Employer to effect change in the conditions of service of workmen is subject to the provisions contained in Section 33 of the Industrial Disputes Act during the pendency of any proceedings before a Conciliation Officer, Board, Labour Court, Industrial Tribunal or National Tribunal. Section 33(1)(a) of the Industrial Disputes Act, refers to 'Pendency relating to any matter connected with the dispute'. In fact, the language of Section 9-A and Section 33(1) of the Industrial Disputes Act, 1947 which deals with the manner in which an Employer, who contemplates alteration of conditions of service, may proceed is very crystal clear. After all, these provisions are only procedural in character and do not create existing or new rights in favour of an Employer.

29. Moreover, Section 33 of the Industrial Disputes Act visualises that the Tribunal may grant express permission to an Employer to alter the conditions of service applicable to workmen to their prejudice. Whether the 'conditions of service' can be altered or

not, will have to be ultimately decided by a Tribunal on a reference under Section 10 of the Industrial Disputes Act, in the considered opinion of this Court. This will be the position even if a valid notice of change under Section 9-A of the I.D. Act, in regard to conditions of service was given by an Employer.

30. It is to be mentioned that an application under Section 33(1) of the Industrial Disputes Act, 1947 is to be determined by the Conciliation Officer by applying his mind to the facts of the case.

31. Section 31(1) of the Industrial Disputes Act, 1947 provides for levying of penalty on an Employer who breaches the ban of Section 33. In fact, Section 33-A of the I.D. Act is available to an aggrieved party in case of violation of Section 33 during the pendency of proceeding before an adjudicatory authority. Section 31(1) of the I.D. Act renders an Employer liable to penalty for violation of Section 33 in both cases viz., violation during the pendency of proceedings before the conciliation authority as well as the adjudicatory authority. The penalty specified by this provision is imprisonment for a term which may extend to six months or with fine which may extend to Rs.1000/- or both.

32.The Criminal Court trying an offence under Section 31 for violation of Section 33 of the Industrial Disputes Act will confine itself to the question as to whether there was a violation of that Section. But, an adjudicatory authority under Section 33-A of the I.D. Act, 1947 has a wider jurisdiction to decide a dispute.

33.As a matter of fact, when a complaint is made to a conciliatory authority, the Conciliation Officer or the Board of Conciliation will take into account such complaint in the cause of mediating or promoting the settlement of dispute. Section 33-A of the Industrial Disputes Act, 1947 provides for an instant remedy to a workman affected by the violation of Section 33 of the I.D. Act. An affected workman is given the option to prefer a complaint in writing to the authority before which an Industrial Dispute is pending. By virtue of the Amendment Act, 46 of 1982, the complaint of such violation can be made not only to the adjudicatory authorities, but also to the conciliatory authorities. A violation of provision of Section 31 of the I.D. Act will be a justifiable ground for an authority to entertain the Application under Section 33-A of the Act.

34. In Law, the remedy for violation of Section 33 is a special remedy provided in Section 31 of the Industrial Disputes Act and the statutory obligation can be enforced only by special penalty and not otherwise. An aggrieved workman as per Section 33-A of the I.D. Act is given the option to seek remedy directly from an adjudicatory authority for the violation of Section 33, without resorting to a reference under Section 10 of the I.D. Act, in the considered opinion of this Court.

35. It cannot be brushed aside that there is no provision in the Industrial Disputes Act, 1947 from altering the conditions of service after following the procedure specified therein. Once the Management satisfies express ingredients of the Act, it cannot be said to owe a public duty or a statutory duty to await a reference which could be made at the behest of employees/workmen before implementing the proposal described in the notice issued under Section 9-A of the Industrial Disputes Act, 1947.

36. It is to be pointed out by this Court that Section 79 of the Factories Act, 1948 speaks of 'Annual Leave with Wages'. Section 80 of the Factories Act refers to 'Wages during Leave Period'.

Discussions:

37.It is to be pointed out that the Industrial Disputes Act, 1947 is an inbuilt and self-contained one. Further, there is no impediment for the Union or the Workmen to avail the remedy under the Industrial Disputes Act for redressal of their grievances. However, the Petitioner/Union has chosen to approach this Court by filing a Writ Petition under Article 226 of the Constitution of India seeking passing of an order by this Court by directing the Assistant Commissioner of Labour (Conciliation), Kuralagam, Chennai to forthwith commence conciliation in any event prior to 10.10.2013 on the industrial dispute brought by the Petitioner/Union on 26.09.2013 against the notice of change issued by the Respondent/Management.

38.On behalf of the Petitioner/Union, an Additional Affidavit was filed before this Court on 21.09.2017 inter alia stating that when the Writ Petition was decided, it had no knowledge that the conciliation proceedings was began by the Conciliation Officer, in view of the fact that it had not received the communication of conciliation notice dated 08.10.2013. Moreover, the said notice of communication of conciliation notice is not available in Petitioner's

Office and hence, when it went to the office of the Conciliation Officer at Kuralagam, Chennai to ascertain when the said communication was despatched, they were not able to give any proof as to when it was despatched etc.

39. It is to be relevantly pointed out that the Respondent/ Management had issued a notice to all concerned dated 20th Day of 2013 (month not specified) in accordance with Section 9-A of the Industrial Disputes Act, 1947, whereby and whereunder, it had expressed his intention to effect the changes specified in the annexure, with effect from 01.01.2014, in the conditions of service applicable to workmen in respect of the matters specified in the Fourth Schedule to the said Act. A perusal of the Form "N" Rule 57 of the (Notice of change of service conditions proposed by an Employer) shows that the same was signed by the General Manager of the Respondent. Further, in the Annexure to Section 9-A notice dated 20th Day of 2013, the changes intended to be effected were specified to the effect that 'Earned Leave will be given (from 01.01.2014 onwards, based on the number of days worked in the previous year) only if they work for 240 days in a calendar year as per Section 79 of the Factories Act, 1948'.

40.It transpires that the Assistant Commissioner of Labour (Conciliation), Chennai – 108 had addressed a Letter No.590/13 dated 08.10.2013 to the Respondent/Management [based on the Union/Petitioner's letter dated 26.09.2013], in and by which, it was made clear that enquiry would be conducted by on the petition of the Union on 24.10.2013 at 3.00 p.m. in the afternoon. Moreover, for the enquiry and in the talks to be held, the Management and the Petitioner were required to appear without any default with concerned documents. A notice copy of the Assistant Commissioner of Labour (Conciliation) was also sent to the Petitioner's Union at Thiruvottiyur, Chennai – 600 019.

41.It appears that the General Secretary of the Petitioner's Union had filed an Affidavit in W.P.No.28244 of 2014 dated 07.10.2013 and that the Memorandum of Writ Petition filed under Article 226 of the Constitution of India was dated 08.10.2013. Further, the Assistant Commissioner of Labour (Conciliation) 2, Chennai – 108 had addressed a communication dated 25.10.2013 to the Respondent/Management stating that in the case of enquiry and conciliation talks in his office would be held on 12.11.2013 at 3.00 p.m. in the afternoon etc.

42.It is to be borne in mind that the Petitioner/Union had approached this Court by filing W.P.No.28244 of 2013 on 08.10.2013, when the Assistant Commissioner of Labour (Conciliation), Chennai – 108 had addressed a notice requiring the Respondent/Management to appear for the enquiry on 24.10.2013 [based on the Petitioner/Union's Petition dated 26.09.2013] with a copy being marked to the Union's address. In the aforesaid W.P.No.28244 of 2013 filed by the Petitioner/Union, only the Assistant Commissioner of Labour (Conciliation), Kuralagam, Chennai – 104 was shown as a party. However, the Respondent/Management was not arrayed as a party to the said Writ Petition. The Learned Single Judge on 10.10.2013 in W.P.No.28244 of 2013 had passed the following order:

"3.In view of the limited scope of the writ petition, though the Management is not made as a Party to writ petition, since no prejudice will be caused to the Management by passing the following order, the Writ Petition is disposed of as hereunder:

"Since the interests of both the Management and workmen are involved, it would be appropriate to direct the respondent to commence the conciliation on the industrial dispute brought by the petitioner dated

26.09.2013 against the notice of change in service condition issued by the Management of MRF Limited at the earliest."

43. Being dissatisfied with the order of the Learned Single Judge dated 10.10.2013 in W.P.No.28244 of 2013, the Respondent/Management/Third party filed W.A.No.167 of 2014 raising several grounds, including a plea that the Petitioner/Union had not made the Respondent/Management as a necessary party to the Writ Petition, because of the reason that the notice under Section 9-A was issued by the Respondent/Management. Continuing further, the Petitioner/Union filed Contempt Petition No.3201 of 2014 seeking to punish the Respondent/Management for Contempt of Court by wilful disobedience of the order dated 24.02.2014 passed in M.P.No.1 of 2014 in W.A.No.167 of 2014.

44. This Court, in W.A.No.167 of 2014 and Contempt Petition No.3201 of 2014, on 02.07.2015, while setting aside the impugned order of the Learned Single Judge dated 10.10.2013 in W.P.No.28244 of 2013 and remitting back the matter to take a decision on merits of the case, had observed as under:

"4 The Management is before

us by way of grant of leave. The main grievance of the Management is that the impugned order has been passed without affording an opportunity of hearing to the Management when the Management is the concerned relevant party.

5 Given the fact that the workmen are working with the appellant-Management, we find substance in the aforesaid contention of the appellant-Management. Thus, the order even for sending the issue to the Conciliation Officer, ought to have been passed only after affording an opportunity of hearing to the appellant – Management.

6 In that view of the matter, we set aside the impugned order dated 10.10.2013 and remit back the matter to the learned Single Judge to take a decision on merits of the case. In the meantime, having regard to the fact situation, as this Court, by order dated 24.02.2014, granted status quo modifying the order of interim stay granted earlier on 13.02.2014, we

direct that the appellant Management shall not implement change of service, till the first hearing takes place before the learned Single Judge on remand of the matter. Thereafter, the appellant-Management is at liberty to make an appropriate application before the learned Single, seeking an appropriate relief, if so advised.

7 Resultantly, the writ appeal stands allowed. Costs made easy. Connected Miscellaneous Petition is closed.

8 In view of the aforesaid judgment rendered in the writ appeal, nothing survives for adjudication in the contempt petition. Accordingly, the contempt petition is closed."

45.A mere running of the eye of the relevant contents of the Sworn Counter Affidavit filed by the General Manager of the Respondent, at paragraph 8, read as under:

"8.I respectfully swear and submit that, the management have not effected any major change in condition of service after passing of the order of status quo on 24.02.2014 and the position prevailed as on 24.02.2014 is continued to hold good till

date. Since the material change of factual position had not been altered by the management after 24.02.2014, and thus, the management had not violated or disobeyed the order of the court."

46. Further, in the same paragraph, the following averments are found:

"... Since the management had not implemented any change of service till date, the management had not moved any application on the legal advice, but continues to hold the position prevailed as on 24.02.2014."

47. On behalf of the Respondent/Management, a Sworn Additional Affidavit filed before this Court on 18.09.2017 wherein at paragraph 4, it is averred as under:

"4.I respectfully submit that, since 01.01.2014 itself the management is following the Section 79 PL Calculation and the management have not effected any change in condition of service till date even after passing of the order of status quo on 24.02.2014 and the position prevailed as on 24.02.2014 is continued to hold good even till date. Since the material change of factual position had not been altered by the management after 24.02.2014 till date, and thus, the management had not violated or disobeyed the order of the court. .."

48.Also, at paragraph 5 of the Additional Affidavit runs as under:

"5.I humbly submit that the time between the Original stay Order was granted on 13.02.2014 and later modified into status quo on 24.02.2014, no action was taken and the management had not implemented any change of service till date."

49.More specifically, the Respondent/Management, in the Sworn Additional Affidavit, at paragraph 6, had stated the following:

"6.... The Management had not effected any change even after the passing of status quo order on 24.02.2014."

Result:

50.On a careful consideration of respective contentions advanced on either side, this Court, taking note of the categorical, crystalline averments made on behalf of the Respondent/Management [in the Sworn Additional Affidavit dated 18.09.2017] to the effect that 'the Respondent/Management had not effected any change even after passing of Status Quo order on 24.02.2014 and the position prevailed as on 24.02.2017 is continued to hold good even till date' and recording the same and also, this Court reiterating its observations made in the Common Judgment passed

by it in W.A.No.167 of 2014 and Contempt Petition No.1302 of 2014 on 02.07.2015, wherein at paragraph 6, a direction was issued to the Management that it shall not implement the change of service till the first hearing takes place before the Learned Single Judge on remand of the matter and also granting liberty to the Management to make an appropriate application before the Learned Single Judge seeking an appropriate relief, if so advised and in view of the fact that M.P.No.1 of 2015 in W.P.No.28244 of 2013 was filed by the Respondent/Management to implead itself as 2nd Respondent in the Writ Petition and the same is pending as on date, this Court, without delving deep into the merits of the subject matter in entirety and also not expressing any opinion one way or other and without precipitating any further, simpliciter, disposes of the present Contempt Petition, by directing the respective parties to approach the Learned Single Judge and to raise all factual and legal issues under the Industrial Disputes Act, 1947, concerning the dispute [including the aspect of notice of change under Section 9-A of the I.D. Act] and to seek redressal of their grievances in the manner known to Law and in accordance with Law. Further, in view of the contentious issues revolving around the dispute between the respective parties and to give a complete and comprehensive

quietus to the subject matter, this Court requests the Learned Single Judge to take up the main Writ Petition 'For Hearing' together with M.P.No.1 of 2015 and to proceed with the case as expeditiously as possible. Liberty is granted to the respective parties to make a mention before the Learned Single Judge for early taking up of the main Writ Petition.

51.Before parting with the case, it is lucidly made quite clear that it is open to the respective parties to approach the Assistant Commissioner of Labour, (Conciliation), Kuralagam, Chennai where an enquiry/talks is/are pending as on 12.11.2013 for redressal of their grievances under the Industrial Disputes Act, 1947 if so they desire/advised.

52.In view of the aforesaid observation(s) and direction(s), the Contempt Petition is closed.

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(M.V., J.) (P.D.A., J.)

06.10.2017

Speaking Order

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Internet :Yes

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M.VENUGOPAL, J.
and
P.D.AUDIKESAVALU, J.

Sgl

To

Mr.Simon A.Panikar,
General Manager,
Rep. MRF Limited, Authorised Signatory
Thiruvottiyur Plant,
Chennai – 600 019.



Order in
Cont.Petn.No.2511 of 2015

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06.10.2017