

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2017

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

WP.No.35786 of 2003 and
WPMP.No.43491 of 2003

1. V.Ramu
2. S.Prakasam ... Petitioners

Vs.

1. Renowned Auto Products Ltd
rep. by its Managing Director
Plot No 122, SIPCOT Industrial Complex
Hosur 635 126.

2. Renowned Auto Products Ltd Factory
rep. by its Plant Manager
Plot No 122, SIPCOT Industrial Complex
Hosur 635 126.

3. Renowned Auto Products Ltd Factory
rep. by its F.Gs. Manager
Plot No 122, SIPCOT Industrial Complex
Hosur 635 126.

4. The Government of Tamil Nadu
rep. by its Secretary to Government
Labour & Employment Department
Fort St. George, Chennai 600 009. ... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a writ of declaration, declaring that the transfer of the petitioners from the factory at Hosur to Gurgaon to be illegal and malafide and amounting to unfair labour practice and consequently direct the respondents not to give any effect to the said orders of transfer.

For Petitioner : Mr.M.D.Thirunavukkarasu
for Mr.V.Prakash

For Respondent : Mr.S.Venkataraman for R1 to R3

Mrs. K.Bhuvaneswari for R4
Government Advocate

O R D E R

The petitioners have filed this writ petition seeking writ of declaration, declaring that the transfer of the petitioner from the factory at Hosur to Gurgaon to be illegal and malafide and amounting to unfair labour practice and consequently, to direct the respondents not to give any effect to the said orders of transfer.

2. Learned counsel appearing for the respondents, submitted that the above said prayer is covered by the Full Bench judgment of this Court reported in 2004 (2) L.L.N. 1086 (P.Pitchumani and others vs Management of Sri Chakra Tyres, Ltd.(represented by its Managing Director), Madurai and others).

3. The issue pressed before the Full Bench in the decision cited supra, is whether the duties of private companies are amenable to the jurisdiction under Article 226 of the Constitution of India. The answer given in the Full Bench judgment is as follows:

"14. In view of what is stated supra, we hold that:

(i) only such violations under I.D. Act, which involve public duties, are amenable to Writ jurisdiction under Article 226 of Constitution of India;

(ii) dismissals, transfers and other matters concerning the service conditions of employees governed by I.D. Act, have to be adjudicated only by the forums created under the said statute and not otherwise;

(iii) it is needless to mention that the disputes relating to matters not governed by I.D. Act have to be resolved only by common law Courts;

(iv) the transfers effected in these cases do not involve any public duties and involve the disputed questions of fact and they should be resolved only before the forums under the I.D. Act;

(v) the appellants/petitioners-employees shall be entitled to seek for reference by filing application under Section 10 of the ID Act within two weeks from the date of receipt of a copy of this order;

(vi) if any industrial disputes are raised, then the concerned forums, be it Labour Court or Industrial Tribunal, shall dispose of the same within four months from the date of receipt of the reference, after affording opportunity to either party;

(vii) without prejudice to the contentions of the appellants/petitioners-employees, one week time from the date of receipt of a copy of this order is given to the employees to join at the transferred places and in respect to such of those dismissed employees, for non-joining at the transferred places, the delay is condoned if they join as stipulated above and in that event, dismissal orders passed against them disappear automatically; and

(viii) the respondents-managements shall sympathetically consider the payments of wages/salaries to the appellants/petitioners-employees so as to maintain the industrial peace and harmony."

4. Since the Full Bench of this Court decided that the petitioners therein have no right to challenge the private company transfer order, accordingly, this Court hold that the petitioners herein have no right to challenge the transfer orders ordered by the private company.

5. However, the learned counsel appearing for the petitioners seek liberty to file appropriate disputes before the competent forum. Accordingly, liberty is granted.

6. This writ petition is dismissed with the above observations. No Costs. Consequently, connected miscellaneous petition is also closed.

-s/d-

Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

msvm

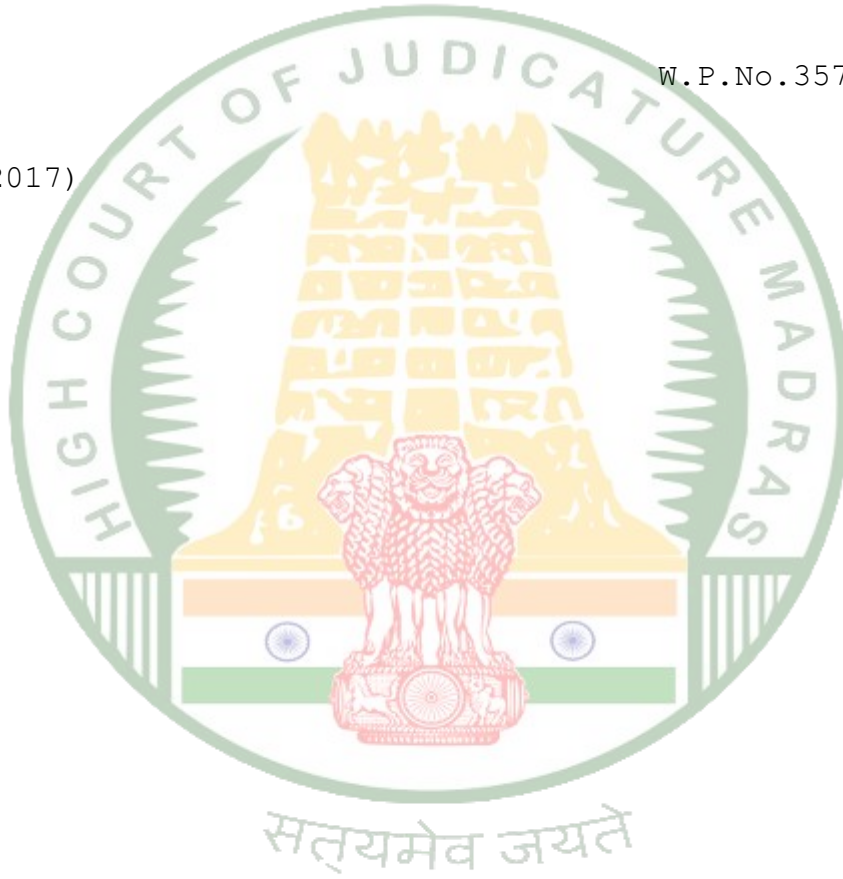
To

The Secretary to Government,
Labour & Employment Department,
Fort St. George,
Chennai 600 009.

+1 cC to Mr.S. Venkatraman, Advocate sr 67961.

W.P.No.35786 of 2003

MSM(CO)
SP(15/11/2017)



WEB COPY