

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) No. 6426/2012**

% **14th March, 2017**

SUPER BAZAR KARAMCHARI HITAISHI SANGATAN

..... Petitioner

Through: Mr. Ravindra Singh, Advocate.

versus

THE COOPERATIVE STORES LTD SUPER BAZAR

..... Respondent

Through: Mr. Ajay Digpaul, Advocate for UOI.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. This writ petition under Article 226 of the Constitution of India, is filed by a Trade Union of Super Bazar seeking the relief of quashing of the order dated 5.10.2012 terminating the services of the employees of Super Bazar, who are admittedly workmen, inasmuch as I have put a query to the counsel for the petitioner that whether the members of the petitioner Union are managers or working in a supervisory position or are workmen, and to which query the response is that the members of the petitioner are workmen.

2. The impugned order dated 5.10.2012 reads as under:-

**“THE COOPERATIVE STORE LTD-SUPER BAZAR CONNAUGHT
CIRCUS, CONNAUGHT PLACE,
NEW DELHI – 110001**

Date: 05.10.2012

NOTICE

All the workers of The Cooperative Stores Ltd-Super Bazar are hereby informed that the bidder had committed to provide employment for period of three years to the evaluation committee constituted by the Hon'ble Supreme Court for bid's Evaluation. The recommendations of the evaluation committee were accepted in its entirety by the Hon'ble Supreme Court vide its order dated 26.02.2009.

The commitment to provide employment for three years stands fulfilled as on 04.10.2012. Now therefore, in keeping with the aforesaid, all the workers are directed not to report for work w.e.f. 05.10.2012. Full and final payment of all the dues up till 04.10.2012 has already been credited to respective bank accounts.

For the Cooperative Store Ltd-Super Bazar

Sd/-

Managing Director.”

3. Section 2 (oo) of the Industrial Disputes Act, 1947 defines retrenchment to include all types of termination of services, except termination of services pursuant to disciplinary proceedings or voluntary retirement of an employee or normal superannuation or termination of employment on account of continued ill-health of the workman. Section 2 (oo) of the Industrial Disputes Act reads as under:-

“2. Definitions. - In this Act, unless there is anything repugnant in the subject or context,-

(oo) “retrenchment” means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include-

(a) voluntary retirement of the workman; or

(b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or

(bb) termination of the service of the workman as a result of the non- renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or

(c) termination of the service of a workman on the ground of continued ill-health;”

4. In the present case, since effectively the services of the workmen have been terminated the same would amount to retrenchment and therefore members of the petitioner who are workmen have alternative efficacious remedy in approaching the authority being the Labour Court or the Industrial Tribunal under the Industrial Disputes Act to question the termination of services which is in the nature of retrenchment.

5. In view of the fact that there is an alternative efficacious remedy, accordingly, this Court refuses to exercise its extraordinary and discretionary jurisdiction under Article 226 of the Constitution of India.

6. This writ petition is, therefore, dismissed with liberty to the petitioner, including its members who are workmen, to approach the competent forum under the Industrial Disputes Act.

MARCH 14, 2017

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VALMIKI J. MEHTA, J