

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2018

CORAM

THE HON'BLE Mr. JUSTICE M.M.SUNDRESH
and
THE HON'BLE Mr. JUSTICE N.ANAND VENKATESH

W.A.No.229 of 2010
and
M.P.No.1 of 2010

1.Bharat Heavy Electricals Limited
rep. by its Manager,
Administration/Estate Office,
Trichy - 620 014.
2.The Estate Officer,
Bharat Heavy Electricals Limited,
Trichy - 14. ... Appellants

Vs.

1.Boiler Plant Employees Union
rep. by its General Secretary,
Trichy - 14.
2.Bharat Heavy Electricals Workers
Union rep. by its
General Secretary,
Trichy - 14.
3.Bharat Heavy Electricals Ltd.,
Employees Progressive Union
rep. by its General Secretary,
Trichy - 14.
4.Boiler Plant Anna Workers
Union rep. by its
General Secretary, Trichy - 14. .. Respondents

Writ Appeal filed under Clause 15 of Letters Patent against
the order dated 24.11.2009 made in W.P.No.3442 of 1999.

Prayer in W.P.No.3442 of 1999:

Writ Petitions filed under Article 226 of the constitution of India to issue a writ of Certiorari calling for the records pertaining to the circular No.BHE.EO.RR dated 6.12.1995 of Bharat Heavy Electricals Limited, Trichy and quash the same.

For Appellants .. Mr.S.Shyam Kumar
for Mr.K.Prabhakar

For Respondents .. No appearance

JUDGMENT

(Judgment of the Court was delivered by M.M.SUNDRESH, J.)

This writ appeal has been filed against the order of the learned single Judge by which the impugned order dated 06.12.1995 was set aside and consequently the first appellant was directed to return the amount collected on this basis. Consequently, the period has been restricted from 01.09.1986 to 31.12.1991 and from 01.01.1992 to 31.12.1996.

2.The appellants are the management and the respondents are the Unions representing the employees. Settlements have been arrived at under Section 18(1) of the Industrial Disputes Act on 05.04.1989 and 30.06.1995. The settlements did speak about the payment of rent for the occupation of quarters belonging to the management by the employees. After the second settlement dated 30.06.1995, a circular was issued by the Estate Administration of Bharat Heavy Electricals Limited on 06.12.1995 fixing rate of rent payable by the employees in favour of the management. This circular was challenged before the learned single Judge.

3.The learned single Judge was pleased to set aside the same holding that the settlement entered into under Section 18 (1) of the Industrial Disputes Act would have a primacy being done voluntarily between the employees and the employer.

4.The appellants are bound by the impugned circular. Even otherwise as per the settlement, there is no real difference of payment involved towards the rent and therefore, there is no question of returning the amount as the percentage fixed under the settlement does not exceed the one mentioned under the circular. Thus the order of the learned single Judge requires interference.

5.We do not find any merit in this appeal. The settlement under Section 18(1) of the Industrial Disputes Act is entered into between the employees and the appellants. Now the Unions are merely representing the employees because what is challenged is the circular and this circular is made applicable to all the employees. Insofar as the submission of the learned counsel with respect to return of the amount and the percentage fixed even under the settlement is lesser than the one mentioned in the impugned circular is concerned, it is well open to the appellants to implement the settlement entered into between the parties under Section 18(1). The order of the learned single Judge is very specific to the effect that no revision or enhancement can be made based upon the impugned circular. It is obviously subsequent. Therefore, the order of the learned single Judge does not stand in the way of the appellants giving effect to the 18(1) settlement for the period specified. We make it clear that if the settlement speaks about the enhanced rent than the one which is mentioned in the circular, then, there is no question of returning the amount that would arise.

6.With the above said clarification of the order of the learned single Judge, which also speaks about the period of revision of rent, the writ appeal stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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