



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.A.No.2270 of 2018
and CMP No.18095 of 2018
[WA Sr.No.71330 of 2018]

1. V.Ramu
2. S.Prakasam

.. Appellants/Petitioners

versus

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

Writ Appeal filed against the order dated 18.09.2017 in WP
No.35786 of 2003.

WP No.35786 of 2003

Writ filed under Article 226 of the Constitution of India
Praying for the issuance declaration declaring that the transfer
of the Petitioners from the factory at Hosur to Gurgaor to be
illegal and Modifide and amounting to unfair Labour practice and
Consequently direct the respondents not to give any effect to
the said orders of transfer.



For Appellants : Mr.M.D.Thirunavukkarasu

JUDGMENT

(Order of the Court was delivered by S.MANIKUMAR, J.)

WEB COPY

Being aggrieved by the order made in W.P.No.35786 of 2003 dated 18.09.2017, by which the writ Court, declined to grant a declaration, declaring that the transfer of the appellants from the factory at Hosur to Gurgaon, as illegal and malafide and amounting to unfair labour practice and consequently, declined to direct the respondents therein, not to give effect to the orders of transfer, instant writ appeal has been filed.

2. Writ petition is directed against Renowned Auto Products Limited, represented by its Managing Director, a subsidiary of Hydraulics Private Limited, SIPCOT Industrial Complex, Hosur. Taking note of a Full Bench decision of this Court in P.Pitchumani and others Vs. Management of Sri Chakra Tyres Limited (rep. by its Managing Director), Madurai and others reported in 2004 (2) L.L.N. 1086, writ Court has dismissed W.P.No.35786 of 2003 vide order dated 18.09.2017.

3. Decision of the Hon'ble full Bench in P.Pitchumani's case [cited supra], taken note of, is extracted hereunder.

"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



WEB COPY

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. As rightly held by the writ Court, writ petition filed challenging the transfer made by the private company, is not maintainable.

5. The only submission made by Mr.M.D.Thirunavukkarasu, learned counsel for the appellants is that the writ petition could have been dismissed, at the threshold, on the grounds that writ against a private company is not maintainable, but then, such dismissal ought not to have been made after nearly 15 years. Issue to be considered by this Court, is whether a writ against a private company, in the matter of transfer, maintainable or not. Delay in disposal of the writ petition, is not a ground to apply the law.

6. Hence, the writ appeal is dismissed. No costs. Consequently, the connected Civil Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To
The Secretary to Government,
Government of Tamil Nadu,
Labour & Employment Department,
Fort St. George,
Chennai - 600 009

W.A.No.2270 of 2018
and CMP No.18095 of 2018

GSP(15/11/2018)