



W.P.Nos.24208 of 2015 etc., batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 11.11.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.24208, 24209, 24210, 24211, 18972, 18973,
18974, 18975, 18976, 19185, 19186, 19187, 19188, 19189,
23786, 23787, 23788, 23789, 23790, 23791, 19142, 19143, 19144,
19145, 19146, 22205, 22206, 22207, 22208, 22211, 22212, 22213,
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23793, 23794, 23795, 23796, 23797, 23798, 23799, 23800,
23801, 23802 and 23803 of 2015
and W.M.P. Nos.1, 1, 1, 1, 1, 1, 1, 1, 1,
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1, 1, 1, 1, 1, 1, 1, 1 of 2015
and W.M.P. Nos.10918, 10919, 10920, 10921, 10914, 10915, 10916,
10917, 10933, 10934, 10935, 10936, 10937, 10938, 10939,
10940, 10941, 10942, 10943 of 2016

W.P.No.24208 of 2015

NTTF Industries Pvt Ltd.,
Rep. by its Director Finance,
Government Industrial Colony,
Gandhi Nagar, Vellore – 632 006

...Petitioner

Vs.

1.The Presiding Officer,
Principal Labour Court,
Vellore, Vellore District.



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2.K.Mani

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3.M/s.Aditya Auto Products & Engineering India Pvt., Ltd.,
Rep. by its Managing Director & CEO,
Mr.C.Jayaraman,
Government Industrial Colony,
Gandhi Nagar, Vellore – 632 006.

4.Mr.Ramesh Pai
(Formerly Divisional Manager – HR,
NTTF Industries Pvt Ltd)
M/s.Aditya Auto Products India (Pvt) Ltd.,
23/24, II Phase, Peenya Industrial Area,
Bangalore 560 058.

5.NTTFIL Employees Union,
Rep. by its General Secretary,
Gandhi Nagar,
Vellore 632 006.

Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records of the 1st respondent in I.A.No.66 of 2015 in I.D.No.37 of 2014 and quash its order dated 06.05.2015.

For Petitioner
in all W.Ps

: Mr.Anand Gopalan for
M/s.T.S.Gopalan And Co.,

For Respondents
in all W.Ps

: Labour Court for R1

Mr.T.N.Rajagopalan for
Mr.A.Devnarendran for R2

No Appearance for R3 to R5

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ORDER

The Interlocutory orders passed in the industrial dispute are under challenge in the present writ petitions.

2.The petitioner is NTTF Industries Private Limited. Nearly about fifty workmen were working in the petitioner's establishment at Katpadi, Vellore. The workmen were represented by the 5th respondent entity NTTFIL Employees Union, which is a registered Union under the Trade Unions Act.

3.It is not in dispute that the petitioner Management entered into a 18(1) Settlement with the Labour's Union on 22.06.2011. Terms and conditions were agreed between the parties in the 18(1) Settlement under the Industrial Disputes Act. The office bearers of the Trade Unions signed the settlement and that is also not disputed between the parties. However, few workmen raised a ground that the office bearers of the Union were not authorized by all the members. However, such a ground is a matter of dispute to be adjudicated and not in question as far as the Interlocutory Applications filed by the Management is concerned.



4.The learned counsel for the petitioner Management made a submission that honoring the 18(1) Settlement under the Industrial Disputes Act, the Management transferred the monetary benefits to all the eligible workmen with reference to the terms and conditions of the said 18(1) Settlement dated 22.06.2011. The respective workmen also acknowledged the monetary benefits which were deposited in their respective accounts. No workmen has returned the monetary benefits transferred by the Management or raised a protest immediately after transfer of the money by the Management. Thus, the workmen received the monetary benefits pursuant to the Settlement under Section 18(1) of the Industrial Disputes Act.

5.In the above backdrop, few workmen raised industrial disputes before the Labour Court, questioning the validity of the settlement entered under Section 18(1) of the Industrial Disputes Act.

6.The learned counsel for the petitioner mainly contended that the settlement was signed on 22.06.2011 and the monetary benefits were transferred to the respective workmen and after a lapse of three years, few workmen raised



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industrial disputes before the Labour Court in the year 2014. Within a short span of period, the Management filed Interlocutory Applications before the Labour Court stating that the workmen, who raised industrial disputes had already received the monetary benefits, which was transferred by the Management in their respective Bank accounts and therefore, they have to return the monetary benefits to the Management and adjudicate the issues before the Labour Court or accept the monetary benefits and confirm the settlement signed under Section 18(1) of the Industrial Disputes Act.

7.The Labour Court adjudicated the preliminary issue raised by the Management regarding the entertainability of the industrial dispute and formed an opinion that the entitlement or dis-entitlement of monetary benefits already received by the workmen in pursuance of 18(1) settlement can be decided only after the trial and after appreciating the evidence available. The Labour Court further held that there is no rule that mandates to deposit the amount received by the workmen under the settlement before trial. Accordingly, the Interlocutory Applications filed by the petitioner Management was dismissed. Thus, the Management filed the present writ petitions.



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8. The learned counsel for the petitioner relied on the judgment of the Hon'ble Supreme Court of India in the case of ***Ramesh Chandra Sankla and Others vs. Vikram Cement and Others*** reported in ***(2008) 14 SCC 58***, wherein, the Hon'ble Supreme Court of India dealt with a case on similar facts and circumstances and made a categorical finding in Paragraph Nos.98, 99, 100 and 101, which reads as under:

98. From the above cases, it clearly transpires that powers under Articles 226 and 227 are discretionary and equitable and are required to be exercised in the larger interest of justice. While granting relief in favour of the applicant, the Court must take into account balancing interests and equities. It can mould relief considering the facts of the case. It can pass an appropriate order which justice may demand and equities may project. As observed by this Court in Shiv Shankar Dal Mills v. State of Haryana, (1980) 1 SCR 1170, Courts of equity should go much further both to give and refuse relief in furtherance of public interest. Granting or withholding of relief may properly be dependent upon considerations of justice, equity and good conscience.



99. *In our considered opinion, taking into account facts and circumstances in their entirety, the order passed and direction issued by the Division Bench of the High Court was in furtherance of justice. Not only it has not resulted in miscarriage of justice, in fact it has attempted to put status quo ante by balancing interests and leaving the matter to be decided by a Competent Authority in accordance with law.*

100. *Even otherwise, according to the workmen, they were compelled to accept the amount and they received such amount under coercion and duress. In our considered opinion, they cannot retain the benefit if they want to prosecute Claim Petitions instituted by them with the Labour Court. Hence, the order passed by the Division Bench of the High Court as to refund of amount cannot be termed unjust, inequitable or improper. Hence, even if it is held that a 'technical' contention raised by the workmen has some force, this Court which again exercises discretionary and equitable jurisdiction under Article 136 of the Constitution, will not interfere with a direction which is in consonance with the doctrine of equity. It has been rightly said that a person "who seeks equity must do equity". Here the workmen claim benefits as workmen of the Company, but they do not want to part with the benefit they have received towards retirement and severance of relationship of master and servant. It*



simply cannot be permitted. In our judgment, therefore, the final direction issued by the Division Bench needs no interference, particularly when the Company has also approached this Court under Article 136 of the Constitution.

101. For the foregoing reasons, in our opinion, the order passed by the Division Bench of the High Court deserves to be confirmed and is hereby confirmed. The payment which is required to be made as per the said order should be made by the applicants intending to prosecute their claims before the Labour Court, Mandsour. In view of the fact, however, that the said period is by now over, ends of justice would be served if we extend the time so as to enable the applicants to refund the amount. We, therefore, extend the time up to December 31, 2008 to make such payment. We may, however, clarify that Claim Petitions will not be proceeded with till such payment is made. If the payment is not made within the period stipulated above, the Claim Petitions of those applicants will automatically stand dismissed. The Labour Court will take up the claim petitions after 31-12-2008.

9.The learned counsel for the petitioner contended that Paragraph Nos.98, 99 and 100 projects the facts of that case which would reveal that the facts were also similar as far as Paragraph No.101 is concerned. The Hon'ble Supreme Court



granted the relief directing the workmen to refund the amount within a specified period failing which, the Industrial Dispute is to be dismissed automatically.

10. In the case of ***Man Singh vs. Maruti Suzuki India Limited and another*** reported in ***(2011) 14 SCC 662***, the Hon'ble Supreme Court held as follows:

8. The present case is squarely covered by the decision of this Court in Ramesh Chandra Sankla. We thus, find no merit in the submission made on behalf of the appellant that the High Court had no jurisdiction to make a direction for refund of the entire amount received by the appellant as a condition precedent for the reference to proceed.

9. We, however, feel that the imposition of interest @ 7.5% per annum was a little harsh and unwarranted. Having regard to the fact that the appellant is no longer in if the direction for refund is confined only to the principal amount received by the appellant under VRS. We, accordingly, modify the order of the High Court to this limited extent and direct the appellant to refund the amount received by him under VRS, without any interest. In case the amount, as directed, is deposited by the appellant by 30.11.2011, the reference shall proceed in accordance with law, otherwise it would stand quashed.



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11. Relying on the above two judgments, the learned counsel for the petitioner reiterated that in the present case, the workmen have to take a decision either to contest the industrial dispute by refunding the amount already received or to accept the settlement and withdraw the industrial dispute already raised before the Labour Court. They cannot take undue advantage of the monetary benefits already paid by the Management and thereafter, contest the issues before the Labour Court with reference to the signed 18(1) settlement.

12. The learned counsel appearing on behalf of the respondent workmen vehemently opposed the contention by stating that the Management transferred the monetary benefits to the accounts of the workmen. The workmen has not made any request enforcing the settlement under Section 18(1) of the Industrial Disputes Act. When transfer of monetary benefit was a voluntary act of the Management, the right of the workmen cannot be denied and they have taken an independent decision to raise a dispute and accordingly, raised before the Labour Court to establish their rights and therefore, now the Management cannot turn around and say the monetary benefits they transferred to be refunded to them. It is further



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contended that even in case, the dispute is allowed to go on, in either circumstances, the monetary benefit transferred is the earned wages for which the workmen are entitled and therefore, the interest of the Management would not be prejudiced. Thus, the Labour Court has rightly rejected the Interlocutory Applications filed by the writ petitioner Management.

13.The learned counsel for the respondent workmen further contended that the judgment of the Hon'ble Supreme Court in the case of ***Ramesh Chandra Sankla and Others vs. Vikram Cement and Others*** would be of no direct application, since the facts are dissimilar and incomparable. The facts in the said case relates to Voluntary Retirement Scheme, wherein, full and final settlement in terms of the scheme was paid by the employer and therefore, those facts would not have any direct bearing with reference to the facts and circumstances prevailing in the present writ petitions. Thus, the writ petitions are liable to be rejected.

14.The question of preliminary objection regarding the entertainability or maintainability of a litigation is to be considered at the first instance to avoid protraction and prolongation of litigation between the parties. Whenever a



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preliminary issue has been raised in a litigation by either of the parties, then the

Courts are bound to decide such preliminary objection in the interest of parties and to avoid unnecessary longevity of litigation between the parties in the Court of law. In the present case, the preliminary objection was raised by the employer by filing an Interlocutory Application on the ground that the Labour Union entered into a settlement under Section 18(1) of the Industrial Disputes Act, which is binding on the workmen, who all are Members of the Union and based on the settlement, the Management transferred the monetary benefits to the respective Bank accounts of the workmen and thereafter, few workmen independently raised an industrial dispute before the Labour Court and under those circumstances, the writ petitioner Management filed an Interlocutory Application to dismiss the industrial dispute or return the monetary benefits received by them pursuant to the settlement under Section 18(1) of the Industrial Disputes Act.

15.While deciding the preliminary objections, Courts have to adopt a balancing and pragmatic approach so as to ensure that no party is prejudiced during the adjudication of the proceedings before the Court of law. The likelihood of causing prejudice is also a ground to grant interim relief in any litigation. Only



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in the event of balancing approach, the litigants would be in a position to freely and fairly adjudicate the issues before the Court of law. In the event of existence of any prejudice to anyone of the parties then, the same would cause certain hindrance to either of the parties to adjudicate the matter in a fair manner.

16.Question arises whether in the present writ petitions, the workmen may be allowed to continue the industrial dispute after receiving the monetary benefits in terms of the settlement under Section 18(1) of the Industrial Disputes Act. Any workmen or employer cannot approbate and reprobate. They have to chose either to accept the settlement or reject the settlement at the first instance and thereafter, they are at liberty to adjudicate the issues in the manner known to law. Contrarily, the disadvantage position cannot be created by either of the parties whether the employer or employee in any case, which would result in miscarriage of justice or anyone of the party will take undue advantage at any point of time, which is not desirable, since fairness in proceedings are to be maintained at all circumstances.

17.The Labour Court in the present case formed an opinion that the issue relating to entitlement of the workmen for the monetary benefit pursuant to the



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settlement under Section 18(1) of the Industrial Disputes Act is to be decided only after trial and after appreciating the evidence available.

18.It is not the question of deciding the entitlement of workmen in the present Interlocutory Application. As rightly pointed out by the Labour Court their entitlement is to be decided only after a full-fledged trial. It is a preliminary objection raised by the employer Management and therefore, the question of giving a finding on entitlement would not arise at all. It is only a balance of convenience and not to cause prejudice to any of the parties during the pendency of the litigation before the Court of law. In this context, the Labour Court ought to have considered that the workmen in the present case, pursuant to the settlement under Section 18(1) of the Industrial Disputes Act received the entire monetary benefits which were transferred by the Management in their respective Bank accounts. While so, they should have at the first instance returned the monetary benefits and protested the settlement by stating that they are not willing to accept the settlement or accept the terms of settlement as per the terms and conditions of the 18(1) settlement. Contrarily, they have received the money and not raised any protest against the money transferred by the Management nor returned back to the



Management and raised a dispute after a lapse of three years from the date of 18(1) settlement. There was a delay even in raising an industrial dispute before the Labour Court on the part of the workmen. If at all, the workmen had not accepted the settlement they should have raised the dispute immediately after the settlement. However, they have waited for about three years which would establish that they had no intention to dispute the settlement at the earliest point of time. After receiving the monetary benefits from the employer, they have raised the dispute after three years and therefore, this Court is of an opinion that the intention on the part of the workmen in delayed initiation of industrial dispute is also to be considered for the purpose of adopting a balancing approach. There was no spontaneous objection from the workmen. It was a calculated objection raised beyond a reasonable period of time and an industrial dispute was raised after three years from the settlement on 22.06.2011. Thus, this Court is of an opinion that the workmen have to take a decision whether to continue the industrial dispute by refunding the monetary benefits received in terms of 18(1) settlement dated 22.06.2011 or to accept the settlement and withdraw the industrial dispute raised by them before the Labour Court.



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19. In this context, the judgment of the Hon'ble Supreme Court would be applicable since, the Apex Court in unequivocal terms held that workmen cannot retain the benefit if they want to prosecute claim petitions instituted by them with the Labour Court. Under those circumstances, the Supreme Court has upheld the order of the Division Bench of the High Court by stating that the direction issued by the Division Bench to refund the amount cannot be termed unjust, inequitable or improper. Though the facts in the case before the Supreme Court was relating to Voluntary Retirement Scheme, the principle laid down by the Supreme Court squarely applies to the facts and circumstances of the present case and therefore, the objection raised by the respondent workmen is untenable in this regard.

20. The Labour Court in the present case had not considered the principles for adopting the balancing of approach, while deciding the preliminary issue raised regarding the entertainability of an industrial dispute between the parties. Contrarily, the Labour Court has arrived at a conclusion that the issues raised can be adjudicated during the trial and to be decided finally. Such an approach is perverse, since the Interlocutory Applications and grant of interim reliefs are to be considered based on the principles of balancing approach, equity and to provide an



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opportunity for free and fair adjudication between the parties in respect of the issues raised in the litigation. In the event of prejudice to anyone of the parties, they will always be in compelling circumstances during the course of adjudication. Such a situation ought not to have been created by the Court of law and the very purpose of object of granting interim relief to either of the parties is to ensure that till such time the proceedings are concluded the parties must be provided with an opportunity to adjudicate the issues in a free and fair manner and that being the basic principles to be followed in the matter of judicial process, the Courts are always expected to create an atmosphere between the parties that no one is prejudiced during the course of adjudication and complete opportunity is to be provided to all the parties for the purpose of rendering complete justice to the parties, who all are approaching the Court of law.

21. With a view to protect the interest of the workmen who have taken a decision to adjudicate the issues before the Labour Court, it would suffice if the workmen are directed to the refund amount to the Management and adjudicate the issues. For the purpose of refunding the amount, additional time is to be granted to the workmen in the interest of justice.



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22. In this context, this Court is of an opinion that the findings of the Labour Court is not only perverse, but irrelevant as far as the Interlocutory Applications are concerned and the Labour Court has not considered the basic principles in the matter of deciding the Interlocutory Applications and thus, this Court is inclined to consider the writ petitions. Accordingly, the orders passed in I.A.No.66 of 2015 in I.D.No.37 of 2014, I.A.No.45 of 2015 in I.D.No.16 of 2014, I.A.No.46 of 2015 in I.D.No.17 of 2014, I.A.No.47 of 2015 in I.D.No.18 of 2014, I.A.No.48 of 2015 in I.D.No.19 of 2014, I.A.No.49 of 2015 in I.D.No.20 of 2014, I.A.No.50 of 2015 in I.D.No.21 of 2014, I.A.No.51 of 2015 in I.D.No.22 of 2014, I.A.No.52 of 2015 in I.D.No.23 of 2014, I.A.No.53 of 2015 in I.D.No.24 of 2014, I.A.No.54 of 2015 in I.D.No.25 of 2014, I.A.No.78 of 2015 in I.D.No.49 of 2014, I.A.No.82 of 2015 in I.D.No.53 of 2014, I.A.No.83 of 2015 in I.D.No.54 of 2014, I.A.No.85 of 2015 in I.D.No.56 of 2014, I.A.No.86 of 2015 in I.D.No.57 of 2014, I.A.No.87 of 2015 in I.D.No.58 of 2014, I.A.No.88 of 2015 in I.D.No.59 of 2014, I.A.No.76 of 2015 in I.D.No.47 of 2014, I.A.No.95 of 2015 in I.D.No.66 of 2014, I.A.No.55 of 2015 in I.D.No.26 of 2014, I.A.No.56 of 2015 in I.D.No.27 of 2014, I.A.No.57 of 2015 in I.D.No.28 of 2014, I.A.No.58 of 2015 in I.D.No.29 of 2014, I.A.No.59 of 2015 in



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I.D.No.40 of 2014, I.A.No.71 of 2015 in I.D.No.42 of 2014, and I.A.No.73 of

2015 in I.D.No.44 of 2014 dated 06.05.2015 are quashed.

23. Consequently, the respondent workmen are directed to deposit the entire monetary benefits received by them before the Labour Court in the account of the respective industrial disputes on the file of the Principal Labour Court, Vellore,



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within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the Labour Court shall proceed with the industrial dispute, adjudicate the issues and dispose of the same, as expeditiously as possible. In the event of not depositing the monetary benefits received by the workmen, the industrial dispute raised by such workmen shall stand dismissed automatically.

24.It is made clear that the observations made in this order is confined only with reference to the Interlocutory Applications filed by the writ petitioner Management and the Labour Court has to decide the issues independently on its own merits and in accordance with law.

25.Accordingly, these writ petitions stand allowed. No Costs. Consequently, connected miscellaneous petitions are closed.

11.11.2022

Index : Yes
Internet : Yes
Speaking order : Yes
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The Presiding Officer,
Principal Labour Court,
Vellore, Vellore District.



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S.M.SUBRAMANIAM, J.

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