



W.P.No.9522 of 2005

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated : 03.01.2023

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P.No.9522 of 2005

M/s.Borax Morarji Limited

rep. By its Accountant

Nedumangad Road

Shenbagaramanputhur

Kanyakumari District

..Petitioner

Vs.

1.The Secretary to the Government

Labour and Employment Department

Fort St.George

Madras

2.The Superintendent of Police,

Kanyakumari District

3.E.Sivasubramanian

4.Kanyakumari District General workers Union

represented by its Secretary P.Sugumaran

..Respondents.

Prayer: Writ Petition filed under Article 226 of Constitution of India,
praying to issue a writ of certiorarified mandamus calling for records, on the



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file of the 1st respondent in proceedings No.49748/B2/2004+1/dated 20.01.2005 and proceedings No.4610/B2/2005-1 dated 25.02.2005 and quash the same as illegal, incompetent and without jurisdiction and direct the 1st respondent to accord permission to the petitioner's application dated 14.12.2004 seeking for retrenchment.

For petitioner : Mr.V.Raghavachari, Senior counsel
for Ms.V.Srimathi

For respondents : Mr.S.Arumugam, for R1 and R2
R3 and R4- No appearance.

ORDER

This Writ Petition is filed by the Management, seeking to quash the proceedings of the 1st respondent-Secretary to Government, Labour and Employment Department dated 20.01.2005 and 25.02.2005 whereby, the authority firstly returned the application of the petitioner dated 14.12.2004 and questioned as to whether the management followed the procedures laid down under I.D.Act. The Management, by letter dated 02.02.2005, submitted that they followed the retrenchment rules as per the I.D.Act and Tamil Nadu Industrial Disputes Rules and sought permission of retrenchment of workmen.



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2. The Secretary to Government, by the impugned order dated 25.02.2006, called for a hearing on 21.03.2005. The petitioner Management submits that the Government cannot extend the period of limitation and call upon the Management to participate in enquiry contrary to the provision of Section 25 N of the Industrial Disputes Act.

3. Today, when the matter is called, the learned counsel for the petitioner would state that the company is not in existence as on date. The learned Government Advocate appearing for State-R1 and R2 also not disputed the said submission. There is no representation on behalf of respondents 3 and 4 – Workman Union.

4. A perusal of the records would go to show that subsequently, G.O.(2D).No.14 Labour and Employment (B2) Department dated 01.04.2005 has been issued, whereby, the Government, rejected the application of the Petitioner-Management made under Section 25 of the I.D.Act. However, the order impugned in this writ petition is with regard to non compliance of procedures laid down under I.D.Act and Rules. It is transpired from the materials available on record that the Petitioner-Management followed the



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procedures in respect of retrenchment and the letter dated 02.02.2005 would clearly go to show that copy of the application for permission for retrenchment with all relevant document with notice of retrenchment to the concerned workmen was served, notice of retrenchment was displayed on the Notice Board on the factory on 01.12.2004, the workmen concerned have been given three months notice in writing with all relevant particulars and that the total number of workmen in the industrial establishment was confined to 21 out of 25 workmen.

5. It is apparent that the petitioner-Management followed the procedures for retrenchment as per I.D.Act and Rules and therefore, the impugned orders are liable to be quashed. Accordingly, this writ petition is allowed. The impugned orders dated 20.01.2005 and 25.02.2005 stands quashed. No costs. Consequently, connected miscellaneous petitions, if any, are closed.

03.01.2023

Index: Yes/No
Speaking/Non-speaking order
nvsri



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To

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- 1.The Secretary to the Government
Labour and Employment Department
Fort St.George
Madras
- 2.The Superintendent of Police,
Kanyakumari District



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J.NISHA BANU, J.

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