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W.A.Nos.1825, 1831, 1832 and 1201 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE **R.SUBRAMANIAN**
AND
THE HONOURABLE MR.JUSTICE **K.SURENDER**

Writ Appeal Nos. 1825, 1831, 1832 and 1841 of 2024
and CMP Nos. 13987, 14012, 14011 and 14127 of 2025

The Management of
Andrew Yule & Company Ltd
Electrical Division
5/346 Old Mahabalipuram Road,
Perungudi, Chennai 600 096.

... Appellant in all the Appeals

Vs.

1. The Presiding Officer,
III-Additional Labour Court,
Chennai 600 104.

2. D.Karunakaran

... Respondents in WA 1825 of 2025

1. The Presiding Officer,
Industrial Tribunal, Tamil Nadu
Chennai 600 104.



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2. The Workmen

Rep by General Secretary,
Andrew Yule Staff & Workers' Union

28 Pillaiyar Koil Theru

Rajaji Nagar, Thiruvananmiyur,

Chennai 600 041.

... Respondents in WA 1831, 1832 of 2025

1. The Presiding Officer,

I-Additional Labour Court,

Chennai 600 104.

2. A.M.Srinivasan

... Respondents in WA 1841 of 2025

Prayer: Writ Appeals filed under Clause 15 of the Letters Patent, to set aside the common order passed in WP Nos.16062 of 2016, 10062 of 2006,10063 of 2006 and 2370 of 2012 dated 26.02.2024.

For Appellants : Mr.P.Raghunathan
(in all the petitions) For M/s. T.S.Gopalan and Co.

For Respondents : Mr.V.Ajay Khose
(in all the petitions)

COMMON JUDGMENT



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(Judgment of the Court was delivered by R.SUBRAMANIAN, J.)

All these Appeals are at the instance of the Management, challenge is to the order of the Writ Court dated 26.02.2024 made in a batch of Writ Petitions filed by the Management as well as individual workman. While the Writ Court concluded that the action of the Management in rolling back the age of retirement from 60 to 58 in violation of Section 9-A of the Industrial Disputes Act, cannot be accepted as valid.

2. The Writ Petitions arose in the following factual back drop:

2.1. The appellant, which is a Government of India owned Company, has admittedly has an Industrial Standing Order and the age of the retirement as per the Standing Order was 58. The Government of India on 19.05.1998 issued an Office Memorandum through the Department of Public Enterprises requiring all Public Sector undertakings to increase the age of retirement for below Board Level Employees to 58 from 60. This was also implemented by the appellant vide the circular dated 29.05.1998. It is not in dispute that on and from 29.05.1998 till the withdrawal took place sometime in 2001, the employees were allowed to retire at the age of 60.

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2.2. In April 2001, the Board passed a resolution to roll back the age of retirement to 58 on the ground that the Company was sick and such roll back would be beneficial to the Company. Permission of the Central Government was sought for vide the letter dated 18.04.2001. The Central Government replied on 25.05.2001 stating that the Company is permitted to roll back the retirement age after fulfilling the required legal formalities. The Company, however, went ahead and issued a circular on 30.05.2001 rolling back the age of retirement to 58 from 60. This became subject matter of at least three proceedings, two before the I Additional and III Additional Labour Court at the instance of individual workman and the third one before the Industrial Tribunal by the Union.

2.3. The Labour Court up held the contention of the Management that since the Standing Orders were not amended, the notice under Section 9-A of the Industrial Disputes Act, was not necessary. The Industrial Tribunal, however, took a contrary view and held that once certain benefit has been conferred on the workman, if we are to take away that benefit and if that benefit falls within Schedule IV of the Industrial Disputes Act, notice under



Section 9-A of the Industrial Disputes Act is mandatory. On the said view, the Industrial Tribunal held that the action of the Management in changing the age of retirement cannot be sustained. This contrary conclusions reached by the two Authorities became subject matter of writ petitions before this Court.

2.4. The Writ Court, upon consideration of the entire issue, agreed with the Industrial Tribunal and allowed the Writ Petition filed by the workman while dismissing the writ petition filed by the Management. Aggrieved the Management has come with these Appeals.

3. We have heard Mr.P.Raghunathan, learned counsel appearing for the appellant.

4. Mr.P.Raghunathan, learned counsel appearing for the appellants wants us to conclude that there was no change in the age of retirement in 1998 because the Union and the Management in 2014 had agreed to increase



the age of retirement to 60 again. This submission, to say the least, is like putting the cart before the horse. A Change was already effected in 1998 and that change was withdrawn illegally. Therefore, to say that because of subsequent action, the illegality would become legal cannot be accepted by a Court of law much less a Division Bench of High Court.

5. It is the fundamental contention of Mr.P.Raghunathan, learned counsel for the appellant that since the Standing Orders were not amended and the age of retirement under the Standing Orders stood only at 58, it was not necessary for the Management to issue a 9-A of the Industrial Disputes Act, notice to change the conditions of service.

6. We do not think we could accept such submission. Section 9-A of the Industrial Disputes Act, reads as follows:

“9A. Notice of change.—No employer, who proposes to effect any change in the conditions of service applicable to any workman in respect of any matter specified in the Fourth Schedule, shall effect such change,—



(a) without giving to the workmen likely to be affected by such change a notice in the prescribed manner of the nature of the change proposed to be effected; or

(b) within twenty-one days of giving such notice: Provided that no notice shall be required for effecting any such change—

(a) where the change is effected in pursuance of any [settlement or award]; or

(b) where the workmen likely to be affected by the change are persons to whom the Fundamental and Supplementary Rules, Civil Services (Classification, Control and Appeal) Rules, Civil Services (Temporary Service) Rules, Revised Leave Rules, Civil Service Regulations, Civilians in Defence Services (Classification, Control and Appeal) Rules or the Indian Railway Establishment Code or any other rules or regulations that may be notified in this behalf by the appropriate Government in the Official Gazette, apply.”

7. The implication of the said provision is that whenever there is a change in the conditions of service applicable to any workman in respect of

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any matter specified in the IV Schedule such change shall not be effected by the Management without issuing a 21 days notice under Section 9-A of the Industrial Disputes Act. The Schedule IV lists out the conditions of service which cannot be changed without notice.

Clause 8 of Schedule IV reads as follows:

*“8. Withdrawal of any customary concession
or privilege or change in usage;”*

It is the contention of the learned counsel for the appellant that in order to fall within Clause 8 of the IV Schedule, the usage or privilege or concession must have been customary. We are unable to agree with the said submission. The words used are customary concession or privilege or change in usage.

8. The rolling back of the age of retirement would amount to a change in usage. This change viz. increase in the age of retirement was introduced by the Management pursuant to the direction of the Central Government. When the Management sought permission of the Central Government to withdraw the change, the Central Government wrote back to the



Management stating that it will be open to the Management to withdraw the increase or roll back the age of retirement to 58 subject to fulfilment of other legal formalities. Therefore, the Management ought to have issued a notice under Section 9-A of the Industrial Disputes Act. The non-amendment of the Standing Orders has nothing to do with the requirement imposed under Section 9-A of the Industrial Disputes Act.

9. The fact that the Standing Orders were not amended cannot be of any use to the Management because of the explicit language of Section 9-A of the Industrial Disputes Act, which states that if there is any change in the conditions of service applicable to any workman, if a change in condition of service is introduced *dehors* the Standing Orders even to withdraw that 9-A notice is required.

10. We also find that a similar issue was considered by the Hon'ble Supreme Court in *Paradeep Phosphates Ltd vs. State of Orissa and others*, reported in **(2018) 6 SCC 195**, wherein the Hon'ble Supreme Court had while rejecting the very argument projected by Mr.Raghunathan, held that the age of superannuation is an integral part of the service condition of the



employee and very moment an order of enhancement of superannuation of employees came into force, though temporary in nature to achieve certain objectives and also it is not deniable that employees are governed by un-amended service rules and certified standing order, but it amounted to privilege to the employees since it was a special right granted to them and the Hon'ble Supreme Court had also pronounced that unilateral withdrawal of such privilege amounts to contravention of Section 9-A of the Industrial Disputes Act and is unsustainable.

11. Both the Industrial Tribunal as well as the learned Singe Judge have only gone on this premise and we do not see any reason to interfere with the conclusions of the learned Singe Judge, the Appeals fail and they are accordingly **dismissed**. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

(R.SUBRAMANIAN, J.) (K.SURENDER, J.)
30.06.2025

jv

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Index : No
Neutral Citation : No
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Speaking order

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To

1. The Presiding Officer,
III-Additional Labour Court,
Chennai 600 104.
2. The Presiding Officer,
Industrial Tribunal, Tamil Nadu
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