



WA Nos.721 of 2024 etc. batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2024

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

WA Nos.721, 739, 765, 708, 717, 710, 692, 713, 700, 702, 719, 694, 689,
754, 709, 706, 726, 724, 723, 690, 698, 707, 695, 688, 722, 704, 685, 697,
715, 712, 714, 699, 703, 746, 742, 755, 683, 753 of 2024

WA No.721 of 2024

Motherson Automotive Technologies & Engineering
(A division of Samvardhana Motherson International Ltd.,)
Chengalpattu Sriperumbudur road,
Pondr Village & Post, Sriperumbudur Taluk,
Kanchipuram District 602 105
rep. By its Factory manager, Prakash T. : Appellant

versus

1.The Deputy Commissioner of Labour (Conciliation-I)
Sriperumbudur,
Kanchipuram District

2.K.Senthil : Respondents

Prayer: Writ appeal filed under Clause 15 of the Letters Patent against the order of the learned Single Judge in WMP No.17675 of 2022 in WP No.3558 of 2022 dated 25.04.2023.



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For the Appellant : Mr.A.L.Somayaji,
Senior Counsel
for Mr.C.Manohar Gupta

For Respondent No.1 : Mr.C.Kathiravan,
Special Government Pleader

For Respondent No.2 : Mr.K.M.Ramesh,
Senior Counsel,
for Mr.K.Bharathi

COMMON JUDGMENT

(Made by the Hon'ble Chief Justice)

We have heard Mr.A.L.Somayaji, learned Senior Counsel for the appellant; Mr.C.Kathiravan, learned Special Government Pleader appearing for the first respondent and Mr.K.M.Ramesh, learned Senior Counsel for the second respondent.

2. These writ appeals are filed against the order passed by the learned Single Judge in an application filed by the employees under Section 17B of the Industrial Disputes Act, 1947 (for short, 'the ID Act').



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3. The employer filed writ petitions against the order passed by the Deputy Commissioner of Labour (Conciliation), Sriperumbudur, under Section 33(2)(b) of the ID Act. Under the said order, the petition by the employer seeking approval to the action of dismissal from service taken against the employees is refused. The employer had challenged the same by filing writ petitions. During the pendency of the writ petitions, the employees have filed an application under Section 17B of the ID Act. The same is allowed. Aggrieved thereby, the present appeals.

4. Mr.A.L.Somayaji, learned Senior Counsel for the appellants, strenuously contends that all the findings in the proceedings before the Deputy Commissioner of Labour are in favour of the employer. In rarest of rare cases, the benefit of Section 17B of the ID Act can be denied to an employee. According to him, the authority has come to the conclusion that the domestic inquiry was conducted in accordance with law, standing order and the principles of natural justice and that the case for dismissal has been proved on the basis of legally admissible evidence. However, only because the employer did not wait



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for the advice of the Additional Deputy Commissioner of Labour, the dismissal of the employees cannot be held to be bad in law. The learned Single Judge has failed to consider the said aspect and as a matter of course, allowed the application under Section 17 B of the ID Act.

5. The learned Senior Counsel, to buttress his submission, placed reliance on the judgment of the Division Bench of the Bombay High Court in *Elpro International Limited vs. K.B.Joshi & Ors.* (1987 Lab IC 1468); so also the judgment of the Division Bench of Karnataka High Court in the case of *Vysya Bank Ltd. vs. General Secretary, All India Vysya Bank Employees' Union* (1994(1) KarLJ 15). He also referred to the order passed by the learned Single Judge of this Court in the case of *Management of Tamil Nadu State Transport Corporation Ltd. vs. P.Kumaraswamy and Ors.*, [2004(2)) LLN 414(Mad)].

6. We have also heard the learned Senior Counsel for the employees.

7. Section 17B of the ID Act, 1947 is a beneficial provision.



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Section 17B provides that where in any case, a Labour Court, Tribunal or National Tribunal by its award directs reinstatement of any workman and the employer prefers any proceedings against such award in a High Court or the Supreme Court, the employer shall be liable to pay such workman, during the period of pendency of such proceedings in the High Court or the Supreme Court, full wages last drawn by him, inclusive of any maintenance allowance admissible to him under any rule if the workman had not been employed in any establishment during such period and an affidavit by such workman had been filed to that effect in such Court.

8. The proviso to the said Section provides that where it is proved to the satisfaction of the High Court or the Supreme Court that such workman had been employed and had been receiving adequate remuneration during any such period or part thereof, the Court shall order that no wages shall be payable under this section for such period or part, as the case may be.

9. It is submitted by learned Senior Counsel for the appellants that in some of the appeals herein, counter-affidavit is filed of the



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employees being gainfully employed elsewhere. However, we do not find any document in support of the same, except a bald statement in the counter-affidavit.

10. The Conciliation Officer had observed that the domestic inquiry has been conducted in accordance with law and principles of natural justice and that prima facie case for dismissal has been proved on the basis of evidence. The Conciliation Officer has further observed that during the conciliation talks held on 09.01.2020, an agreement was reached between the management and the union as per the accepted advices, and the strike came to an end. In Clause 3 of the Agreed Advice dated 09.01.2020, which took place in the presence of Additional Labour Commissioner, Chennai, it has been stated that both the management and the workers' side have accepted and signed the advice as follows:

“Both the parties agreed that the management would take a final decision based on the advice of the Deputy Commissioner of Labour – 1 (Conciliation), Sriperumbudur after submission of the final enquiry report



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pertaining to the disciplinary action taken by the management against the 51 workers.”

11. The same was agreed upon by the management and the workers' side. It has been observed by the conciliation officer that before the Deputy Commissioner of Labour, Conciliation, could advice, the employer took the action of dismissing the employees from service and on that count, the authority came to the conclusion that the action of the employer is a retaliatory action.

12. No doubt, the aforesaid finding is a subject-matter of consideration before the learned Single Judge and the learned Single Judge will have to decide the matter on its own merits.

13. Considering the limited scope of Section 17B of the ID Act, and the beneficial purpose for which the said provision is enacted, the facts and circumstances of the case do not necessitate interference of this Court with the discretion exercised by the learned Single Judge in allowing the application under Section 17B of the ID Act.



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14. The observations made herein above are only prima facie in nature and the learned Single Judge would certainly consider the matter on its own merits.

15. At this stage, Mr.Somayaji, learned Senior Counsel, submits that the writ petitions be directed to be decided expeditiously. The said request can be made by the appellant before the learned Single Judge and the learned Single Judge may endeavour to decide the writ petitions expeditiously as per his convenience.

16. The writ appeals stand dismissed. There shall be no order as to costs. Consequently, CMP Nos.4820, 4825, 4805, 4816, 4817, 4896, 4901, 4904, 4906, 4912, 4918, 4922, 5017, 4797, 4979, 4985, 4995, 5012, 4855, 5013, 4829, 4835, 4840, 4846, 4847, 4849, 4852, 4857, 4858, 4859, 4860, 4864, 4865, 4866, 4870, 5024, 5028, 5078 of 2024 are closed.

(S.V.G., CJ.)

(D.B.C., J.)

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Index : Yes/No
Neutral Citation : Yes/No
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