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W.P.Nos.36831, 36832, 36838, 36840 and 36841 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2024

CORAM:

THE HONOURABLE MR.D.BHARATHA CHAKRAVARTHY

W.P.Nos.36831, 36832, 36838, 36840 and 36841 of 2024
and WMP.Nos.39762, 39764, 39774, 39777 and 39781 of 2024

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| 1.T.Sathiyaseelan | ... Petitioner in W.P.No.36831 of 2024 |
| 2.T.Iyyamperumal | ... Petitioner in W.P.No.36832 of 2024 |
| 3.M.Ramasubramanian | ... Petitioner in W.P.No.36838 of 2024 |
| 4.L.Marimuthu | ... Petitioner in W.P.No.36840 of 2024 |
| 5.S.Narayanan | ... Petitioner in W.P.No.36841 of 2024 |

Vs.

1.The Management of Gates Unitta India Company Pvt. Ltd.,
F-19, SIPCOT Industrial Park, Pondur – A,
Sriperumbudur,
Kancheepuram District – 602 106.

2.S.Viswanath ... Respondents in all W.P.Nos.

COMMON PRAYER: Writ Petitions are filed under Article 226 of the Constitution of India, to issue a Writ of Declaration, declaring the charge memos dated 10.10.2024 and 18.10.2024 as null and void and as offending the fundamental rights of the petitioners guaranteed under Article 19(1)(a) and Article 21 of the Constitution of India.

For Petitioners in	: Mr.V.Prakash, Senior Counsel for
all W.P.Nos.	Mr.S.Gokul



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COMMON ORDER

These writ petitions are filed to declare the charge memos dated 10.10.2024 and 18.10.2024 as null and void and as offending the fundamental rights of the petitioners guaranteed under Article 19(1)(a) and Article 21 of the Constitution of India.

2.All these writ petitions are connected to each other and are taken up together and disposed of by this common order at the admission stage itself.

3.Heard, Mr.V.Prakash, the learned Senior Counsel appearing on behalf of the petitioners/workmen. In all these cases charge memoranda dated 10.10.2024 and 18.10.2024 were issued. It is seen that the group insurance scheme in the first respondent management was not renewed in time. Therefore, the Workmen had written an email communication, whereby they have admonished the management for not having renewing it on time and they have also questioned that if anything happens to the Workmen or their family, whether the management or the Government will take responsibility. From the records it can be seen that when the said communications were sent by the Workmen on 10.10.2024 and 18.10.2024, subsequently, a public notice was put



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up on 24.10.2024, whereby from 06.09.2024, group insurance scheme was renewed and the premium amount was also mentioned. Simultaneously, the management took offence of the Emails written by these workmen. By taking exception to each and every sentence of their email communication, imputing misconduct on the Workmen raised five charges, as if the conduct of the workmen in sending the email violated various provisions of Standing Orders as applicable. Even though, the Workmen have submitted their explanation denying the charges and denying the fact that there cannot be any misconduct at all and whatever has been uttered would be within the realm of their right to freedom of speech and expression, which is available to every citizen of India and taking exception to the same will have chilling effect and would amount to victimisation and also in a manner as to trample the rights of the Workmen. The same was not accepted by the management and further enquiry notice dated 06.11.2024 is issued. Therefore, the Workmen are before this court.

4.The learned Senior Counsel appearing on behalf of the petitioner/ Workmen would submit that even though, the first respondent is a private management, relying upon the Judgement of the Honourable Supreme Court of India in the case of ***Federal Bank Limited Vs. Sagar Thomas and Others***, reported in ***(2003) 10 SCC 733***, more specifically paragraph No.27 would



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submit that a writ petition would lie even as against the private management if, the nature of the grievances is considered. In this case, violation of the fundamental rights is alleged, and therefore, as an extraordinary case, this court should interfere in the matter.

5.I have considered the submissions made by the learned Senior Counsel and perused the materials on record.

6.At the outset, it can be seen that the Workmen have written an email admonishing the management for not taking timely step to renew the group insurance scheme. Further, it can be seen that the said allegations were not false. As a matter of fact only subsequently the Group insurance scheme was renewed with effect from 06.09.2024. However, the management is taking exception to the manner in which it is drafted and is taking offence of the same. It is the defence of the Workmen that on a perusal of the email communication, the same cannot be treated as in any manner abusive or defamatory or admonition, but only an expression of the genuine grievance of the Workmen. Such expression of genuine grievance can never amount to any misconduct.



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7. Therefore, it is for the Workmen to plead before the Domestic Enquiry Officer that none of the allegations, which is alleged in the charge memoranda amount to any kind of misconduct. For that reason, this Court cannot interdict in a decision to proceed against the Workmen. The exercise of disciplinary power by the management against its workmen is not a statutory duty or public duty. It is concerning the employer-employee relationship between the private individuals and therefore, the writ petition cannot be entertained. Therefore, leaving it open for the petitioners/Workmen to raise all the defences, including the defence that the action which is done by them would not amount to misconduct at all and that it is only a facet of their right to speech and expression before the appropriate domestic enquiry authority, these writ petitions are disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

02.12.2024

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Neutral citation : Yes

To

The Management of Gates Unitta India Company Pvt. Ltd.,
F-19, SIPCOT Industrial Park, Pondur – A,
Sriperumbudur,
Kancheepuram District – 602 106.



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D.BHARATHA CHAKRAVARTHY,J.

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