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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-02-2025

CORAM

THE HONOURABLE MR JUSTICE M.DHANDAPANI**WP No. 15279 of 2011**

Asian Bearings Limited
Perigai Road, Belathur-635 124, Hosur
Taluk, Dharmapuri Dist.

Petitioner(s)

Vs

1. The Presiding Officer
Industrial Tribunal, City Civil Court
Buildings, Chennai-104.

2.Asian Bearings Employees Union
38, Ram Theru, Hosur Kizhakku,
Dharmapuri Mavattam.

3.Dharmapuri Mavatta Anna
Engineering Thozhil Sangam, 5/10a,
Naserpettai, Taluk Office Road, Hosur,
Dharmapuri Mavattam.

4.Asian Bearings Workers Union
No.3/124-3, S.R.Building, Teachers
Colony, Soodapuram, Belathur Anjal,
Hosur Taluk-635 124.

Respondent(s)



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For Petitioner(s): M/s. S. Haroon Al Rasheed,

For Respondent(s): R1 - Tribunal
M/s.P.Chandrasekaran for R4
RR2 and 3 Not Ready Notice

ORDER

Questioning the correctness of the order passed by the Industrial Tribunal, Chennai in I.D.No.50 of 2004, dated 31.08.2009, the present writ petition has been filed. The Labour Court had declared the lay-off under the guise of partial suspension of work as unjustified and held that the employees are entitled to full wages during the period of lay-off.

Brief facts:

2. The petitioner was engaged in the manufacture of ball bearings and employed around 755 persons in various categories like engineers, managers workers and staff. It is the case of the petitioner that due to recession in the engineering industry and availability of imported ball bearings at a cheaper rate, production was hit and it resulted in suspension of operation for the period from 30.08.2001 to 30.04.2005. It is the contention of the workmen that the worker's union was not operating and it indulged in unlawful activities leading to



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stoppage of work. It is the case of the petitioner that revival plans did not materialise and dues of the employees could not be paid. According to the petitioner, there was no income from 2005 onwards and workmen were aware of the financial situation and indeed, they too consented for reducing the workforce and for employing workmen in rotation basis. The Labour Court did not appreciate the facts in its proper perspective and erred in declaring the lay-off as illegal. Hence, the petitioner prayed to set aside the impugned order.

3. The fourth respondent union has filed a detailed counter-affidavit contending contra. The fourth respondent has stated that the union had never consented for reduction of labour force or for deployment on rotation basis. According to the fourth respondent, the union had filed a claim petition in CP No.2 of 2019 for implementing the award in I.D.No.50 of 2004 and the same is pending before the Labour Court, Hosur. The petitioner has declared a lock out of the factory on 09.01.2006 and the union had raised an industrial dispute as against the illegal lock out and the same was taken on file as I.D.No.20 of 2007. The Labour Court has declared the said lockout as illegal and unjustified and



directed the management to lift the lockout within a period of three months

from the date of the award and provide employment to the workmen. The

Labour Court has also held that the workmen would be entitled to full wages

from 09.01.2016 till the date when the lockout is lifted, along with consequent

benefits.

Arguments:

4. The learned counsel for petitioner submitted that it is not the pleasure of the management to indulge in lockout or lay-offs and that there was a genuine financial crisis, which was beyond the control of the petitioner management. Learned counsel also submitted that the market was flooded with cheap variety of similar bearings and therefore, the business was badly hit. This has resulted in weak financial position of the petitioner management and the very foundation of the petitioner management was shaken. Production became very low and the petitioner could not pay its employees properly. The workers were aware of the weak financial position of the petitioner management and they consent for lay-offs, rotation of employees and partial suspension of production. Without appreciating any of these core issues, the Labour Court has



held the lay-offs as illegal.

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5. The learned counsel for the fourth respondent herein submitted that the reasons attributed by the petitioner management for laying off and lock out are totally unacceptable. True, the market was filled with cheaper ball bearings. According to the workers union, the production was in no way affected because of that though there was a little lack. Likewise, the learned counsel submitted that the workers union at no point of time did agree or give concern for laying off employees or to rotate the employees on shift basis. The learned counsel submitted that because of the illegal lay off and reduction of work force by the petitioner management only 136 permanent workers were able to get continuous work for the entire month and other 410 permanent workers were not given work. The learned counsel also drew the attention of this Court to the fact that over 70 workers have died because of poverty and starvation after the lockout.

6. The learned counsel further submitted that to execute the award passed in the impugned order, the Union had filed a claim petition in C.P.No.2 of 2019



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which is pending before the Labour Court, at Hosur. Notwithstanding the earlier defeat, the management had resorted to another lock out of the factory on 09.01.2006. The respondent union was forced to raise an industrial dispute and the same was taken on file as I.D.No.20 of 2007. The Tribunal had declared the lockout as illegal and unjustifiable and directed the petitioner to lift the lockout within a period of three months and provide employment to the workmen. Challenging the said order the learned counsel submitted that the petitioner has filed W.P.No.25463 of 2017 before this Court and the same is pending. The learned counsel summed up his arguments stating that the management wanted to close the factory once and for all and it is leaving no stone unturned to achieve its object. The learned counsel therefore submitted that the impugned order does not require any interference and the same may be sustained.

Discussion and disposition:-

7. A cursory examination of the impugned order would show that the Labour Court has analysed the entire facts and materials available before it in a threadbare manner. This Court is in complete agreement with the findings of the Labour Court. The Labour Court has held that the contentions of petitioner are



not legally acceptable as contemplated under Section 25M of the I.D. Act. The

Court has also held that Ex.W-28 would go to show that the workmen neither agreed for the lay-off nor agreed on the reasons stated therein for the lay-off.

The petitioner management has persuaded the union to believe that the management was suffering from financial crisis. Moreover, under Ex.M-21, the management has stated that all positive steps would be taken to completely lift the suspension of operation by the end of February, 2002. A cumulative reading of the documents would only go to show that the workmen did not give consent for the imposition of lay-off. Likewise, the workmen never consented for relinquishing their right to receive compensation.

8. The Labour Court has rightly observed that lay-off cannot be declared merely for the reason that the employer has suffered financial depreciation for reasons beyond its control and that such lay-off is invalid and unjustified and the workmen can claim full wages for the period of lay-off.

9. This Court is of the view that the said reasoning of the Labour Court



does not require any interference by this Court.

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10. It is also seen that the workers union has filed a claim petition in C.P.No.2 of 2019 to execute the award passed in the impugned order and the same is pending on the file of Labour Court, Hosur. Moreover, during the pendency of the proceedings in I.D.No.50 of 2004, the petitioner management has declared a lock out of the factory on 09.01.2006. The fourth respondent Union has raised an industrial dispute as against the lockout and the same was taken on file in I.D. No.20 of 2007. The Labour Court has passed an award dated 07.01.2016 holding that the lockout declared by the management was illegal and unjustified and directed the management to lift the lockout within a period of three months from the date of award and provide employment to the workmen.

11. This attitude of the petitioner management only shows that the petitioner wants to get rid of the workmen at any cost and they are indulging in forced lockouts and lay-offs.



12. Hence the writ petition fails and the same is dismissed. The petitioner management is directed to honour the award passed by the Labour Court and pay the employees full wages during the period of lay-off. There will be no order as to costs.

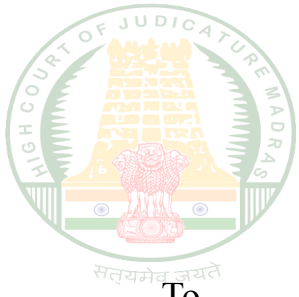
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Index: Yes/No

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To
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The Presiding Officer
Industrial Tribunal, City Civil Court
Buildings, Chennai-104.



M.DHANDAPANI J.

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RAP

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