

W.P.Nos. 17153 of 2010, 11041 of 2011 & 6171 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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RESERVED ON : 16.04.2025

DELIVERED ON : 22.08.2025

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.Nos.17153 of 2010, 11041 of 2011 & 6171 of 2014
and
M.P.No.1 of 2014

[W.P.No.17153 of 2010]

1.R.Balaji
2.R.Velmurugan
3.R.Munusamy
4.M.Palani
5.Panchatsharam

... Petitioners

Vs.

1.M/s.Marshall Sons & Co.
(Manufacturing) Ltd.,
33/34, Ambattur Thozhipettai
Ambattur,
Chennai-600058

2.The Presiding Officer,
Industrial Tribunal, Tamil Nadu
(High Court Campus)
Chennai - 600104

... Respondents



Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus Calling upon the production of the records relating to the award dated 16.10.2008 made in I.D. No.13 of 2004 passed by the 2nd Respondent herein, quash the same and direct the 2nd Respondent to adjudicate the reference in G.O.(D) 271 dated 12.3.2004 Labour and Employment Department, Government of Tamil Nadu, as stated in the award.

For Petitioner : M/s.S.Senthilnathan

For Respondents :
(for R1) : M/s.M.R.Raghavan

(for R2) : Tribunal

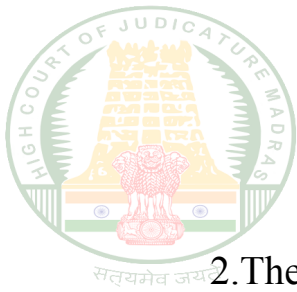
[W.P.No.11041 of 2011]

1.G.Masilamani
2.D.Logu
3.R.Murali
4.Kothandapani

... Petitioners

Vs.

1.M/s.Marshall Sons & Co.
(Manufacturing) Ltd.,
33/34, Ambattur Thozhipettai
Ambattur,
Chennai-600058



W.P.Nos. 17153 of 2010, 11041 of 2011 & 6171 of 2014

2.The Presiding Officer,
Industrial Tribunal, Tamil Nadu
(High Court Campus)
Chennai - 600104

... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus Call for the records from the 2nd respondent herein in respect of the award dated 16/10/2008 made by it in I.D.No.13 of 2004 and quash the same in so far it failed to give the relief of full wages and other attendant benefits to the petitioners herein as long as the lock out resorted to by the 1st respondent continues and direct the 1st respondent to grant the same.

For Petitioner : M/s.S.Chandra Bose
For Respondents :
(for R1) : M/s.M.R.Raghavan
(for R2) : Tribunal

[W.P.No.6171 of 2014]

1.The Management of
M/s.Marshall Sons & Co.
(Manufacturing) Ltd.,
33/34, Ambattur Industrial Estate,
Chennai-600058



W.P.Nos. 17153 of 2010, 11041 of 2011 & 6171 of 2014

... Petitioner

Vs.

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1.The Presiding Officer,
II Industrial Labour Court
Chennai

2.G.Masilamani
3.D.Logu
4.V.Sundaravathanam
5.K.Inbasekaran
6.K.Pattabirama Rao
7.G.Chinnappa
8.R.Murali
9.C.Muniyandi

... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorari to call for the records in C.P.No.421 of 2005 on the file of the II Additional Labour Court, Chennai, the 1st respondent herein, quash the order dated 20.12.2012.

For Petitioner : M/s.M.R.Raghavan

For Respondents :

(for R2, 3, 5 to 9) : M/s.S.Chandra Bose

(for R1) : Court

(For R4) : Served - No appearance

COMMON ORDER

A common order is being passed since the facts involved in all



the writ petitions are one and the same.

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2. WP.No.17153 of 2010 has been filed by the petitioners 1 to 5 who are the petitioners 2, 4, 5, 11 and 8 respectively in the proceedings before the Labour Court in ID.No.13 of 2004.

3. WP.No.11041 of 2011 has been filed by the petitioners 1 to 4 who are the petitioners 10, 7, 9 & 6 respectively in ID.No.13 of 2004. The petitioners are the workmen of the 1st respondent company in WP.No.17153/2010.

4. WP.No.6171 of 2014 has been filed by the management challenging the order passed in CP.No.421 of 2005.

5. Since the facts are common in all the Writ Petitions, they are being culled out herein below:-



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6. The petitioners in WP.No.17153/2010 and 11041 of 2011 had joined the 1st respondent company on various dates in various capacities. It is the case of the workmen that on 23.09.1999, they had entered into a settlement under Section 12(3) of the Industrial Disputes Act (herein after called as the “ID Act”) regarding the revision of wages and other service conditions. This Settlement was valid for a period of 3 years ie. upto 31.12.2002. After the expiry of the said settlement, the workmen had submitted a fresh charter of demands in February 2003. As the management did not come forward to negotiate on the charter of demands, the workmen had raised an Industrial Dispute and the same was taken up for conciliation by the Assistant Commissioner of Labour (Conciliation-II), Chennai. On 01.05.2003, a settlement under Section 12(3) of the ID Act has been arrived at between the parties and the same was effective for a period of 3 years i.e. upto 30.04.2006. However, the management did not implement the terms of settlement and in fact did not pay the earned wages for June and July 2003. Subsequently, the workmen had raised a demand



seeking payment of wages for the months of June and July.

Immediately, on 02.08.2003 a board was put up in the factory premises by the management stating that the workmen were indulging in riotous behaviour and threatening the personnel of the company. Therefore, they had declared suspension of operation of its work at the factory. The petitioner would contend that this is nothing but declaring a lockout as defined under Section 2(1) of the ID Act.

7. The management had thereafter attempted to remove the materials from out of the factory premises which was effectively prevented by the workman by staging Dharna. The police had intervened in the matter and on the very same day a peace meeting was held and minutes were drawn up. The management thereupon agreed to remove the materials pertaining to the customers alone in the presence of the union leaders.

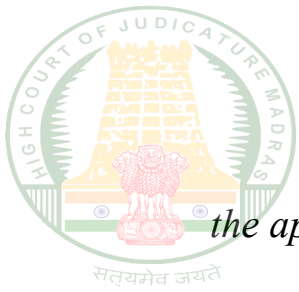
8. The petitioners would submit that challenging the illegal action



of the management in declaring suspension of operations, the union had raised an Industrial Dispute under Section 2K of the ID Act before the Joint Commissioner of Labour, Chennai. The Conciliation Officer was unable to bring about the settlement between the union and the management and therefore he had sent his failure report to the Government on 16.09.2003. On 12.03.2004, the Government had passed G.O.(D) No.271, Labour and Employment Department declaring the continuation of the lockout as bad under Section 10(3) of the ID Act and referred the dispute for adjudication. The terms of reference was as follows:-

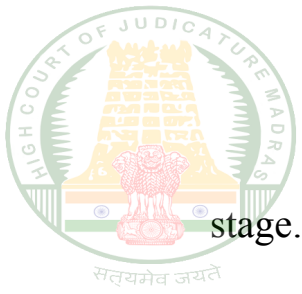
"Whether the lockout resorted to by the management with effect from 02.08.2003 under the guise of stoppage of production is justified? If not to what relief the workers are entitled ?

9. The main ground on which the workmen had challenged the closure is that :- *"The management has not taken prior permission from*



the appropriate Government as mandated under Section 25-O of the ID Act before closing down the Industry and in order to circumvent this mandatory requirement the management has declared suspension of production."

10.The management had countered the averments contained in the Writ Petition Nos.17153 of 2010 and 11041 of 2011 by contending that the reference is without jurisdiction and on an improper appreciation of facts. They would contend that on account of certain actions of the workmen the manufacturing activity has come to a standstill. The management would submit that after the dispute was referred to the conciliation proceedings, discussions were held between the union and the management before the Joint Commissioner of Labour at Chennai. The management would submit that they had participated in all the meetings and from the earliest stage of discussion the workmen sought only for a one time settlement and this is the only issue before the Joint Commissioner of Labour right from the initial

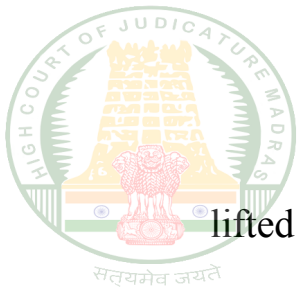


stage.

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11. The respondent management would further submit that the allegations that the lockout is with a malafide motive is totally incorrect. They would further submit that the allegations that there is a contravention of Section 25(O) of the ID Act is totally unsustainable and made with a malafide intention. They would submit that Writ Petition Nos.17153 of 2010 and 11041 of 2011 deserves to be dismissed even on the ground of maintainability.

12. The Government had passed G.O.(D).No.271 Labour and Employment dated 12.03.2004 not only referring the issue relating to the legality of the lockout declared by the respondent for adjudication to the Industrial Tribunal but also prohibiting the continuance of the lockout of the respondent under Section 10(3) of the ID Act. The effect of this order prohibiting the lockout is that the Management should lift the lockout and employ the workmen. However, the respondent had not



lifted the lockout and continued with it. The petitioners therefore filed CP.No.421 of 2001 claiming wages from 01.08.2003 to the date of filing of the Claim Petition. They prayed that the Court be pleased to order the Management to compute the money value of benefits under Section 33-C (2) read with Section 33-C (5) of the ID Act.

13. The Management had filed a counter interalia contending that the petition was not maintainable since the proceedings under Section 33-C (2) of the ID Act could be invoked only where a right exists and since no right vests with the workmen, the petition was not maintainable. It is their further contention that the "*Suspension of Operation*" is already the subject matter of conciliation before the Joint Commissioner of Labour, Chennai and a failure report has been forwarded by him dated 16.09.2003 to the Government of Tamilnadu. The Government had referred the dispute relating to the legality of the lockout declared by the Management for adjudication to the Industrial Tribunal. It is only after the dispute in ID.No.13 of 2004 has been



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adjudicated upon that the rights of the parties would be crystallised and only if a favorable award is passed in respect of the petitioners they could work out their rights under Section 33-C(2) of the ID Act.

14. Without prejudice to these legal contentions, the Management had also filed its objections on the merits of the petition. It is their contention that due to certain violent incidents that had taken place in the factory premises in the second half of 2003 the Management found it difficult to continue its operations and the workmen had also made it impossible to carry out manufacturing activities. Their representative from Kolkata had come down to hold discussions with the workmen so as to arrive at a solution. Thereafter, with the passage of time the workmen understood that it was not possible to revive the industry and therefore sought for monetary compensation. During the initial talks of settlement with the representatives of the management, the workmen sought for a one time settlement. Some of the workmen had also found alternate employment. Therefore, it is the contention of the



management that right from the beginning of the negotiation before the Joint Commissioner of Labour, Chennai, one time settlement was the only issue for consideration. That being the case, the present petition seeking wages for the period subsequent to the suspension of operation is absolutely erroneous particularly when the workmen had themselves expressed a desire to receive the one time settlement. The Management would therefore contend that the workmen cannot blow hot and cold.

15. The Management also took a defence that the petition was a belated one in as much as it had been filed 2 years after the suspension of activities and the petition appeared to be an attempt to force the management into a one time settlement. The respondent ultimately prayed for a dismissal of the petition.

WP.No.17153 of 2010

16. The learned counsel representing the petitioners in WP.No.17153 of 2010 on instructions would submit that the petitioners



in this Writ Petition are ready and willing to receive the settlement amount that has been given to the other workmen who have entered into a settlement with the Management. Therefore, considering the above submission, **WP.No.17153 of 2010 is disposed of** with a direction to the Management to extend the same benefits that they have given to the other workmen who had entered into a settlement with them to the petitioners in this Writ Petition. No costs.

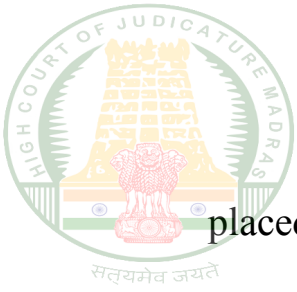
WP.No.11041 of 2011

17. The learned counsel appearing on behalf of the petitioners in WP.No.11041 of 2011 would contend that the Tribunal on considering the evidence on record in ID.No.13 of 2004 had observed that the Management had not satisfied the statutory requirements for stopping the production and it was nothing but an unjustified lockout. The Tribunal below had observed so and had held that the workers had established their right and jurisdiction to decide the matter before the Industrial Tribunal. However, after holding that it was not a suspension



of production but an unjustified lockout the Tribunal had erred in directing the petitioners to enter into the same settlement that the other workmen had entered into with the management.

18. The learned counsel for the petitioners would submit that after coming to the conclusion that the lockout was unjustified and illegal, the order passed by the Tribunal directing only the payment of 15 days wages under the head of gratuity for every completed year of service, 15 days wages under the head of retrenchment compensation for every completed year of service and 3 months salary as notice pay as per the ID Act with interest at 24%, is totally erroneous and unsustainable. It is his contention that once the Tribunal has held that the lockout is unjustified and illegal then it ought to have directed reinstatement with continuity of service and backwages. In support of this argument, the learned counsel would rely upon the judgement reported in **2005 (3) SCC 224 - Oswal Agro Furane Ltd. and another Vs. Oswal Agro Furane Workers Union**, wherein the question that was



placed for consideration before the Hon'ble Supreme Court was whether in a case of closure of industrial undertaking prior permission of the Government was imperative and whether any settlement arrived at by and between the employer and the workmen would prevail over the statutory requirements as contained in Section 25-N and 25-O of the ID Act. The learned Judges after discussing the provisions of the ID Act and the various judgements in this regard had held that a settlement within the meaning of Section 2(p) read with Section 18(3) of the ID Act would no doubt bind the workmen but the provisions of Sections 25-N and 25-O of the ID Act have to be complied with. The Bench had held that the requirements of show cause notice in terms of Sections 25-N and 25-O of the ID Act cannot be done away with and the State Government while considering the request seeking prior permission for closing down an undertaking has to hear both the employer and the employee and pass a speaking order either granting or refusing the permission. Therefore, he would submit that after the Tribunal had held that it was a lockout and not a suspension of production, the Tribunal



ought to have gone into the question as to whether the provisions of the ID Act regarding the closure of an Industrial undertaking had been complied with. Admittedly, the provisions are not complied with. Therefore, the petitioners are entitled to be reinstated with continuity of service and backwages. He would further submit that the petitioners are not bound by the settlement entered into with the other workmen as it is not a settlement which is arrived at as per the provision of Section 18(3) of the ID Act.

19. Further, for a settlement under Section 18(4) of the ID Act would be treated as one under Section 18(3) of the ID Act and binding on all the workmen, only if it receives the stamp of approval of the conciliation officer and without the same it cannot be treated as binding on all the workmen unlike Sections 12(3) or 18(3) settlement.

20. The learned counsel would further argue that the Government had rejected the lockout and directed the opening of the industry. This



order has not been challenged by the Management. Further, under

Section 25-O of the ID Act where there are more than 100 workers the Management has to make an application to the appropriate authority and without doing so the closure is bad. That apart, even prior to the industrial dispute the petitioners had filed a Claim Petition and when Section 33-C-2 petition is pending the management could not have terminated the services of the workmen and in support of this argument, the learned counsel would rely upon the judgement of the Hon'ble Supreme Court reported in ***(2002) 2 SCC page 244 - Jaipur Zila Sahakari Vikas Bank Ltd. Vs. Ram Gopal Sharma and Others.***

21. Mr.M.R.Raghavan, learned counsel appearing for the respondent management would submit that the settlement arrived at between some of the employees pending conciliation proceedings would not only bind the members who have signed the same but also all the workmen employed in the establishment. Therefore, it is his contention that the petitioners should also be governed by the



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settlement entered into by the others. In support of this proposition he would rely upon the judgement reported in *AIR 1960 SC 1012 -Ramnagar Cane and Sugar Co. Ltd Vs. Jatin Chakravorthy and others.*

22. Further, he would submit that the company has closed down and therefore there is no question of reinstating the workmen. He would therefore submit that taking into account the subsequent events this Court ought to dismiss the Writ Petition.

Discussion:-

23. Admittedly, the Tribunal in ID.No.13 of 2004 had held that the Management had resorted to a lockout under the guise of stoppage of production and the same was not justified. The Management has not challenged this finding or the award. The workmen are aggrieved by the fact that after holding that the closure of the establishment was unjustified, the Tribunal ought to have granted reinstatement with



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continuity of service and backwages as well as attendant benefits. The Tribunal appears to have been swayed by the fact that the other workmen had entered into a settlement with the management.

24. Since the arguments revolves around the provisions of Sections 25-N and 25-O it would be useful to extract these provisions. Section 25-N of the ID Act lays down the conditions precedent to retrenchment of workmen, which read as follows:-

(i) No workman employed in any industrial establishment to which this Chapter applies, who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until,-

(a) the workman has been given three months 'notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of



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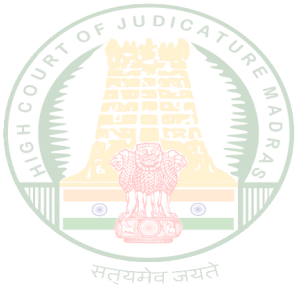
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the notice; and

(b) the prior permission of the appropriate Government or such authority as may be specified by that Government by notification in the Official Gazette (hereafter in this section referred to as the specified authority) has been obtained on an application made in this behalf.

(2) An application for permission under sub-section (1) shall be made by the employer in the prescribed manner stating clearly the reasons for the intended retrenchment and a copy of such application shall also be served simultaneously on the workmen concerned in the prescribed manner.

(3) Where an application for permission under sub-section (1) has been made, the appropriate Government or the specified authority, after making such enquiry as it



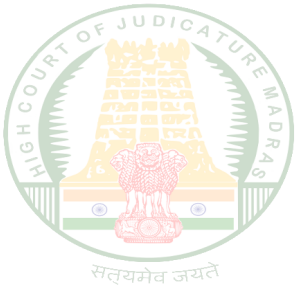
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thinks fit and after giving a reasonable opportunity of being heard to the employer, the workmen concerned and the person interested in such retrenchment, may, having regard to the genuineness and adequacy of the reasons stated by the employer, the interests of the workmen and all other relevant factors, by order and for reasons to be recorded in writing, grant or refuse to grant such permission and a copy of such order shall be communicated to the employer and the workmen.

(4) Where an application for permission has been made under sub-section (1) and the appropriate Government or the specified authority does not communicate the order granting or refusing to grant permission to the employer within a period of sixty days from the date on which such application is made, the permission applied for shall be deemed to have been granted on the expiration of the said period of sixty days.

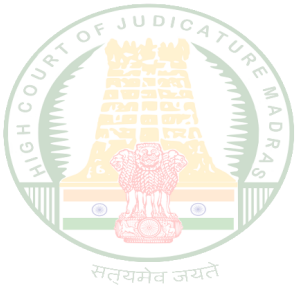


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(5) An order of the appropriate Government or the specified authority granting or refusing to grant permission shall, subject to the provisions of sub-section (6), be final and binding on all the parties concerned and shall remain in force for one year from the date of such order.

(6) The appropriate Government or the specified authority may, either on its own motion or on the application made by the employer or any workman, review its order granting or refusing to grant permission under sub-section (3) or refer the matter or, as the case may be, cause it to be referred, to a Tribunal for adjudication:

Provided that where a reference has been made to a Tribunal under this sub-section, it shall pass an award within a period of thirty days from the date of such reference.



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(7) Where no application for permission under sub-section (1) is made, or where the permission for any retrenchment has been refused, such retrenchment shall be deemed to be illegal from the date on which the notice of retrenchment was given to the workman and the workman shall be entitled to all the benefits under any law for the time being in force as if no notice had been given to him.

(8) Notwithstanding anything contained in the foregoing provisions of this section, the appropriate Government may, if it is satisfied that owing to such exceptional circumstances as accident in the establishment or death of the employer or the like, it is necessary so to do, by order, direct that the provisions of sub-section (1) shall not apply in relation to such establishment for such period as may be specified in the order.

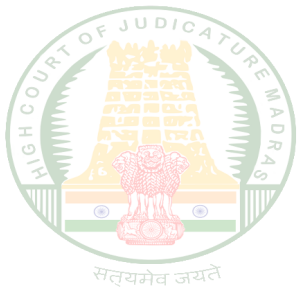


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(9) Where permission for retrenchment has been granted under sub-section (3) or where permission for retrenchment is deemed to be granted under sub-section (4), every workman who is employed in that establishment immediately before the date of application for permission under this section shall be entitled to receive, at the time of retrenchment, compensation which shall be equivalent to fifteen days 'average pay for every completed year or continuous service or any part thereof in excess of six months.]"

25. Section 25-O of the ID Act deals with the procedure for closing down of an industrial undertaking which read as follows:-

" (1) An employer who intends to close down an undertaking of an industrial establishment to which this Chapter applies shall, in the prescribed manner, apply, for prior permission at least ninety days before the date



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on which the intended closure is to become effective, to the appropriate Government, stating clearly the reasons for the intended closure of the undertaking and a copy of such application shall also be served simultaneously on the representatives of the workmen in the prescribed manner:

Provided that nothing in this sub-section shall apply to an undertaking set up for the construction of buildings, bridges, roads, canals, dams or for other construction work.

(2) Where an application for permission has been made under sub-section (1), the appropriate Government, after making such enquiry as it thinks fit and after giving a reasonable opportunity of being heard to the employer, the workmen and the persons interested in such closure may, having regard to the genuineness and adequacy of the reasons stated by the employer, the interests of the



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general public and all other relevant factors, by order and for reasons to be recorded in writing, grant or refuse to grant such permission and a copy of such order shall be communicated to the employer and the workmen.

(3) Where an application has been made under sub-section (1) and the appropriate Government does not communicate the order granting or refusing to grant permission to the employer within a period of sixty days from the date on which such application is made, the permission applied for shall be deemed to have been granted on the expiration of the said period of sixty days.

(4) An order of the appropriate Government granting or refusing to grant permission shall, subject to the provisions of sub-section (5), be final and binding on all the parties and shall remain in force for one year from the date of such order.

(5) The appropriate Government may, either on its



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own motion or on the application made by the employer or any workman, review its order granting or refusing to grant permission under sub-section (2) or refer the matter to a Tribunal for adjudication:

Provided that where a reference has been made to a Tribunal under this sub-section, it shall pass an award within a period of thirty days from the date of such reference.

(6) Where no application for permission under sub-section (1) is made within the period specified therein, or where the permission for closure has been refused, the closure of the undertaking shall be deemed to be illegal from the date of closure and the workmen shall be entitled to all the benefits under any law for the time being in force as if the undertaking had not been closed down.

(7) Notwithstanding anything contained in the foregoing provisions of this section, the appropriate



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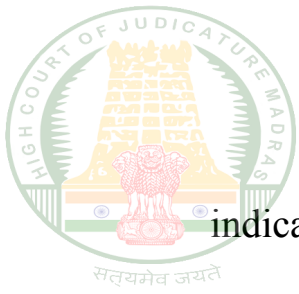


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Government may, if it is satisfied that owing to such exceptional circumstances as accident in the undertaking or death of the employer or the like it is necessary so to do, by order, direct that the provisions of sub-section (1) shall not apply in relation to such undertaking for such period as may be specified in the order.

(8) Where an undertaking is permitted to be closed down under sub-section (2) or where permission for closure is deemed to be granted under sub-section (3), every workman who is employed in that undertaking immediately before the date of application for permission under this section, shall be entitled to receive compensation which shall be equivalent of fifteen days 'average pay for every completed year of continuous service or any part thereof in excess of six months.]"

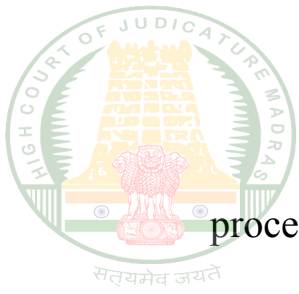
26. Therefore, a reading of these provisions would clearly



indicate that prior permission from the appropriate authority is required for closing down an industry. Admittedly, in the instant case, such a permission has not been obtained.

27. The Hon'ble Supreme Court in the judgement of ***Oswal Agro Furane Ltd.*** cited supra has considered the issue as to whether in a case of closure of industrial undertaking prior permission of the appropriate Government was imperative and whether any settlement arrived at between the employer and the workmen could do away with the statutory requirements contained in Sections 25-N and 25-O of the ID Act. The learned Judges held that compliance of the provisions of Sections 25-N and 25-O were imperative. Therefore, in the light of the judgement of the Hon'ble Supreme Court in the case of ***Oswal Agro Furane Ltd.*** it has to be held that the closure was not a valid closure.

28. The argument put forth by the learned counsel for the management that parties have entered into a settlement pending these



proceedings and therefore the compliance of the provisions of Sections 25-N and 25-O were not required would also not come to their rescue in the light of the observations of the Hon'ble Supreme Court in the aforesaid case which reads as follows:-

" A settlement within the meaning of Section 2(p) read with sub-section (3) of Section 18 of the Act undoubtedly binds the workmen but the question which would arise is, would it mean that thereby the provisions contained in Sections 25-N and 25-O are not required to be complied with? The answer to the said question must be rendered in the negative. A settlement can be arrived at between the employer and workmen in case of an industrial dispute. An industrial dispute may arise as regards the validity of a retrenchment or a closure or otherwise. Such a settlement, however, as regards retrenchment or closure can be arrived at provided such retrenchment or closure has been effected in accordance with law. Requirements of

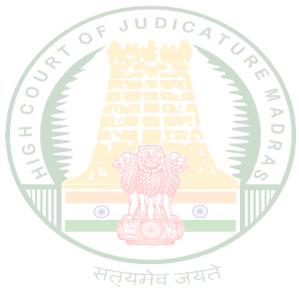


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issuance of a notice in terms of Sections 25-N and 25-0, as the case may be, and/or a decision thereupon by the appropriate Government are clearly c suggestive of the fact that thereby a public policy has been laid down. The State Government before granting or refusing such permission is not only required to comply with the principles of natural justice by giving an opportunity of hearing both to the employer and the workmen but also is required to assign reasons in support thereof and is also required to pass an order having regard to the several factors laid down therein. One of the factors besides others which is required to be taken into consideration by the appropriate Government before grant or refusal of such permission is the interest of the workmen. The aforementioned provisions being imperative in character would prevail over the right of the parties to arrive at a settlement. Such a settlement must conform to the statutory conditions laying down a



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public policy. A contract which may otherwise be valid, however, must e satisfy the tests of public policy not only in terms of the aforementioned provisions but also in terms of Section 23 of the Indian Contract Act."

29. Admittedly, in the instant case, such a permission has not been obtained and neither has the settlement got the stamp of approval from the conciliation officer.

30. The Hon'ble Supreme Court in the judgement reported in ***1998 1 SCC page 650 - P.Virudhachalam and Others Vs. Management of Lotus Mills and Another*** had discussed at length the statutory scheme relating to the settlement being entered into between the management and the workmen. The learned Judges observed that where a settlement has been arrived at in the course of a conciliation proceedings then the same would be binding on all the workmen as envisaged in Section 18(3) of the ID Act. Likewise, a settlement



entered into under Section 12(3) of the ID Act. The learned Judges however held that as all agreement entered into between the employer and employee would not become a settlement as contemplated under Section 12(3) of the ID Act.

31. Admittedly, in the instant case, the agreement has been entered into between an individual employee and the respondent management. Therefore, the same is not binding on the petitioners herein.

32. In view of the above, **WP.No.11041 of 2011 is allowed** and the order passed in ID.No.13 of 2004 is set aside and the respondent is directed to reinstate the petitioners with continuity of service, backwages and all other attendant benefits. No costs.

WP.No.6171 of 2014.

33. In WP.No.6171 of 2014, the argument on the part of the



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petitioner Management was that the dispute had not been adjudicated and therefore there was no order and rights have not fructified in order to give a cause of action to the respondents workmen to file the Claim Petition. The learned counsel would rely upon the judgement reported in **1995 (1) SCC 235 - Municipal Corporation of Delhi Vs. Ganesh Razak and Others** with particular reference to para. No.8 therein in support of their argument that the Tribunal in an application under Section 33-C(2) of the ID Act cannot quantify the amount payable to the workmen since the Labour Court while exercising jurisdiction under Section 33-C(2) of the ID Act was only acting as an executing Court and therefore it was only the award or terms of settlement that can be placed for the adjudication before the Labour Court.

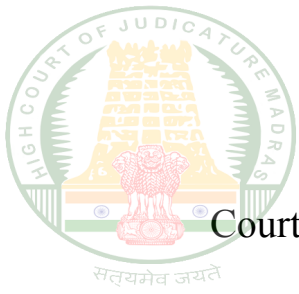
34. Per contra, Mr.Chandrabose learned counsel appearing on behalf of the respondents workmen would submit that even as early as on 12.03.2004 the Government had passed an order declaring the continuance of lock out as bad and has stated that the workmen were



entitled to reinstatement. Therefore, it was only a question of computing the wages, backwages and attendant benefits as the workmen are deemed to be in service.

35. In support of the argument that the Labour Court could consider the entitlement of the employee to receive the benefit while computing the same in terms of money, he would rely upon the judgement reported in *AIR 1964 SC 743 - The Central Bank of India Ltd. Vs. P.S.Rajagopalan*.

36. The learned counsel would also rely upon the judgement of this Court reported in *1979 SCC Online Mad 458 - Pudukottah Textiles Ltd. Vs. Additional Labour Court and Others*. This was a case where a reference had been made before the Government and in the meanwhile the workmen had filed a petition under Section 33-C(2) of the ID Act. The learned Judge after considering the various judgements held that the workmen could invoke their jurisdiction of the Labour



Court and also went on to hold that the settlement arrived at between some of the workmen with the employer under Section 18(1) of the ID Act was not binding on the others.

37. A perusal of the records and the above referred judgements makes it clear that when a workman's right is crystallized a computation petition can be filed and it is well within the jurisdiction of the Labour Court to consider the entitlement and quantify the amount payable to the workmen. As stated supra, the Government by its order dated 12.03.2005, had declared the continuance of lockout to be an illegal and directed reinstatement. Therefore, the right of the workman to claim wages had commenced from 01.08.2003.

38. The only defence that has been taken by the management is that there is no award or order directing payment. However, it is to be borne in mind that the management has not challenged the Government Order passed G.O.(D) No.271 dated 12.03.2004. That being the case it



is not open to the petitioner management to now question the claim of the petitioner on the ground that it is premature.

39. The Labour Court had already allowed the Computation Petition in CP.No.421 of 2005 in respect of petitioners 58-60 and directed payments to the workmen. Therefore, the petitioner management is estopped from now challenging the order passed in CP.No.421 of 2005 in respect of these respondents 2 to 9 herein. Accordingly, **W.P.No.6171 of 2014 stands dismissed.** No costs. Consequently, the connected Miscellaneous Petition is closed.

40. In conclusion :-

(i) **WP.No.17153 of 2010 is disposed of** on the submission of the petitioners with a direction to the Management to extend to the petitioners the same benefits that they have given to the other workmen with whom they had entered into a settlement.



W.P.Nos. 17153 of 2010, 11041 of 2011 & 6171 of 2014

(ii) **WP.No.11041 of 2011 is allowed** and the order passed in

ID.No.13 of 2004 is set aside and the respondent is directed to reinstate the petitioners with continuity of service, backwages and all other attendant benefits.

(iii) **W.P.No.6171 of 2014 is dismissed.**

22.08.2025

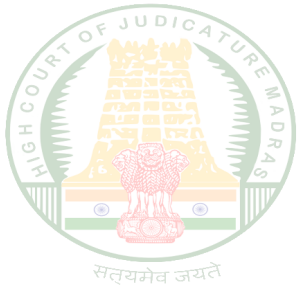
Index: Yes/No
Speaking order/non-speaking order
Neutral Citation: Yes/No
shr

To

1.The Presiding Officer,
Industrial Tribunal, Tamil Nadu
(High Court Campus)
Chennai - 600104

P.T.ASHA, J.,

shr



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W.P.Nos. 17153 of 2010, 11041 of 2011 & 6171 of 2014

W.P.No.17153 of 2020, 11041 of 2011 & 6171 of 2014
and
M.P.No.1 of 2014

22.08.2025