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W.P.No.23871 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2025

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.23871 of 2015

and

M.P.No.1 of 2015 and W.M.P.Nos.7363 and 7364 of 2022

1.The General Manager,
Andrew Yule and Company Limited,
5/346, Rajiv Gandhi Salai,
Perungudi, Chennai-600 096.

2.The Director (Personnel),
Andrew Yule and Company Limited
8, Dr.Rajendra Prasad Sarani,
Kolkata-700 001.

... Petitioners

Vs.

1.The Presiding Officer,
Central Government Industrial Tribunal
Cum Labour Court, Chennai.

2.The General Secretary,
Andrew Yule Staff and Workers Union,
1, Rajiv Gandhi Road,
Kandanchavadi,
Chennai-600 096.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India



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praying for issuance of Writ of Certiorari, to call for the records of the first respondent in I.D.No.80 of 2013 and quash its award dated 22.04.2015.

For Petitioner : Mr.P.Raghunathan
for Mr.Karthik

For Respondents : R1-Tribunal
Mr.V.Ajoy Khose for R2

ORDER

The present Writ Petition is filed by the petitioners Management as against the order dated 22.04.2015 passed by the Labour Court in I.D.No.80 of 2013.

2. The Industrial Dispute was raised by the second respondent Union on behalf of the workman. In the said Industrial Dispute, the transfer of one workman, by name, Soundarrajan who was the Secretary of the Union, was challenged. The transferred employee challenged the transfer order before this Court and the transfer order was stayed, but, later the writ petition was withdrawn by the workman. Thereafter, the Union took up the issue claiming that the transfer order was issued without any authority and it is illegal. The Industrial Dispute was contested by the petitioners



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Management on the ground that the concerned workman was very defiant in his attitude and he created very chaotic and tense situation in the factory which led to suspension of production operation. Thereafter, the transfer order was issued due to closure of Chennai Unit and the same was challenged with malicious intention. The Labour Court, after considering the oral and documentary evidence led in by both sides, came to a conclusion that the transfer was not justifiable and directed the Management to take back the concerned workman in service in the factory at Chennai with 25% backwages and other attendant benefits. Challenging the said award, the present Writ Petition has been filed by the petitioners Management.

3. The learned counsel appearing for the petitioners Management contended that the transfer order was passed as per the certified Standing Order of the Management and even in the appointment orders of all the employees, it was clearly mentioned that the employees are subject to transfer to any Establishment in India. That apart, there were several instances between 2008 and 2011 when the concerned workman disrupted



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the normal functioning of the factory, the petitioners Management were constrained to keep him away from Chennai Factory, that too for 150 days and thereafter to make a representation for re-transfer. Therefore, the conclusion arrived at by the Labour Court is not at all justifiable and liable to be set aside.

4. The learned counsel appearing for the second respondent Union submits that on the face of it, the transfer order was malicious as the concerned employee was the Secretary of the union and has been fighting for the cause and welfare of the workmen. Therefore, the Labour Court was justified in concluding that the transfer order has to be set aside and has rightly ordered for taking back the employee into service. Accordingly, the learned counsel appearing for the respondent prays for dismissal of this writ petition.

5. Heard the learned counsel appearing for the petitioners and the learned counsel appearing for the second respondent Union.



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6. Admittedly, the Industrial Dispute was raised in the year 2013 and the present Writ Petition was filed in the year 2015. It is also reported that the concerned employee has reached the age of superannuation in the year 2023 itself and therefore, no useful purpose would be served by adjudicating the issue of transfer at this length of time. Even if the award is confirmed, the employee cannot be taken back into service as he has already crossed the age of employment. The position as to his gainful employment during the period of pendency of the proceedings has also not been reported. Therefore, this Court, is inclined to grant a lumpsum compensation of Rs.15,00,000/- (Rupees Fifteen Lakhs only) to the concerned employee. The petitioners Management are directed to pay the said sum of Rs.15,00,000/- (Rupees Fifteen Lakhs only) and the gratuity on the last drawn wages to the concerned employee within a period of eight weeks from the date of receipt of a copy of this order.

7. Accordingly, this Writ Petition is disposed of. There shall be no



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order as to costs. Connected miscellaneous petitions are closed.

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NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No
ssb

To

The Presiding Officer,
Central Government Industrial Tribunal
cum Labour Court, Chennai.



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M.DHANDAPANI,J.

ssb

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