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W.P.No. 5766 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Reserved on : 07.03.2025

Pronounced on : 17.03.2025

PRESENT:

THE HON'BLE DR. JUSTICE A.D. MARIA CLETE

W.P.No. 5766 of 2020

and

W.M.P.No. 6744 of 2020

M/s. Standard Chartered Global
Business Services Private Limited,
earlier known as Scope International Private Limited,
No.1, Haddows Road,
Chennai – 600006.

...Petitioner

Vs.

1.Special Joint Commissioner of Labour
Commissionerate of Labour
Appellate Authority under the Tamil Nadu Shops and
Establishments Act, 1947,
Post Box No.476, Teynampet,
Chennai – 600006.

2. Neeraj Bansal,
S/o. S.B.Bansal,
5/5, Shivalingam 2nd Cross Street,
R.A.Puram, Chennai – 600028.

...Respondents



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Prayer in W.P.No.5766 of 2020

To pass an order or orders or writ, particularly writ of Certiorarified Mandamus to call for the impugned records in TSE-1/I.A.11 of 2018 in TSE-1/1 of 2017 Dated 23/10/19 and quash the order passed in Para 20 to 23 including the findings in Para 10 (part), 11 of the order in TSE-1/I.A.11 of 2018 in TSE-1/1 of 2017 on the file of the 1st Respondent and pass such further or other orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

Prayer in W.M.P.No.6744 of 2020

To pass an order of interim stay of the proceedings in TSE-1/1 of 2017 before the 1st Respondent pending disposal of the writ petition.

Appearance of Parties:

For Petitioner : For M/s. Savitha K Jagadeesan, Gaurav Chatterjee,
J.R.Jayant, M.G.Pranava Charan and
E.G.Hem Nag Indiran, Advocates

For Respondent 1 : Mr.Murali, Govt. Advocate

For Respondent 2 : Mr.S.Sathish Kumar, Advocate
For M/s. Row and Reddy, Advocates

JUDGMENT

Heard.

2. The Petitioner, a management entity, has filed the present writ petition at an interlocutory stage of an appeal pending before the 1st



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Respondent, the Appellate Authority constituted under the Tamil Nadu Shops and Establishments Act, 1947 (hereinafter referred to as the "Shops Act"). The 2nd Respondent, who was employed as a Senior Vice President in the Petitioner Company, challenged an order denying him employment dated 30.11.2016 by filing an appeal under Section 41(2) of the Shops Act before the 1st Respondent. The appeal was registered as TSE Case No. 1/2017, and notice was issued to the Petitioner.

3. The Petitioner entered appearance and filed a counter statement dated 03.07.2017. In response, the 2nd Respondent submitted a reply statement dated 06.10.2017, to which the Petitioner subsequently filed a rejoinder dated 31.01.2018.

4. The Petitioner contended that the appeal was not maintainable, asserting that the 2nd Respondent had voluntarily tendered their resignation, which was accepted by the Petitioner, and therefore, the question of withdrawing such resignation did not arise. Subsequently, the 2nd Respondent filed an application for the production of documents in I.A. No. 11 of 2018, seeking the production of 16 documents through a petition dated 21.05.2018. The Petitioner, in its counter statement dated 17.09.2018,



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opposed the application, arguing that an appeal under Section 41(2) of the Shops Act is a summary proceeding and should not be used as a means for an extensive inquiry. While the Petitioner agreed to produce certain documents, it contended that some were irrelevant and further maintained that, having resigned from employment, the 2nd Respondent was not entitled to seek such documents.

5. After hearing both parties, the authority passed the impugned order dated 23.10.2019. In determining the interim application, the authority framed three issues. On the first issue, it observed that since the 2nd Respondent had filed an appeal against non-employment, he had no connection with the outcome of the domestic enquiry findings. Regarding the second issue, the authority held that Document Nos. 1 to 5 and 13 need not be produced, and similarly, Document Nos. 6 to 11 and 16 were also deemed irrelevant. As for Document Nos. 12, 14, and 15, which comprised email correspondence, the authority noted that the 2nd Respondent was not entitled to seek them. However, despite this observation, the 1st Respondent directed the Petitioner to produce Document Nos. 12, 14, and 15 by the next hearing date, 08.11.2019.

6. In the impugned order dated 23.10.2019, the 1st Respondent



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directed the production of the following documents:

“xii) Email exchanges between Robert Moster and petitioner between the period 6.8.2016 to 30.11.2016.

xiv) Copy of Conduct Policy document

xv) Resignation / termination employment policy along with notice period prevailing at the time of resignation and withdrawal by petitioner.”

The 2nd Respondent did not raise any grievance regarding the denial of certain documents.

7. The Petitioner filed the present writ petition challenging the interim order directing the production of certain documents, which was admitted by this Court on 06.03.2020. However, no interim stay was granted in the Miscellaneous Petition during the pendency of the writ petition. When the matter was listed on 06.02.2025, this Court passed the following order:

“After briefly hearing both parties, the learned counsel for the respondent requested time to obtain instructions regarding the specific documents required concerning Document No. 12, which has been ordered for production, as well as the specific emails related to Document No. 14, which includes a copy of the Conduct Policy document. In response, the learned counsel for the petitioner stated that a copy of the Conduct Policy document would be provided to the respondent’s side. Concerning Document No. 15, which pertains to the resignation and termination employment policy, including the notice period applicable at the time of resignation, the petitioner’s counsel submitted that such a document is not in their possession.



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2. Given these circumstances, the case has been adjourned for a week to allow the learned counsel for the respondent to obtain instructions regarding the exchange of Documents Nos. 12 and 14 and to report back to the Court. The additional contentions raised by the petitioner's counsel, particularly concerning the findings in paragraphs 10 and 11 of the impugned order and the request for quashing the same, will be considered once the document exchange has been completed."

8. Following this order, the scope for interfering with the impugned order was significantly reduced. With respect to Document Nos. 12 and 14, the Petitioner expressed willingness to produce them. However, regarding Document No. 15, the Petitioner stated that the document was not in their possession.

9. Therefore, the only remaining question is whether the writ petition should proceed for further hearing and adjudication. The powers of the Appellate Authority, as prescribed under Section 41(2) read with Rule 9(3) of the Tamil Nadu Shops and Establishments Rules, 1948, are as follows:

The procedure to be followed by the appellate authority (Deputy Commissioner of Labour), when hearing appeals preferred to him under sub-section (2) of section 41 shall be summary. He shall record briefly the evidence adduced before him and then pass orders giving his reasons therefor. The result of the appeal shall be communicated to the parties as soon as possible. Copies of the orders shall also



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be furnished to the parties, if required by them.

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10. The Supreme Court, while interpreting Section 41(2) of the Shops Act and Rule 9(3) in its decision in *UPASI v. K.G. Sangameswaran*, reported in 1997 (4) SCC 741, held as follows:

17. From a perusal of the provisions quoted above. it will be seen that the jurisdiction of the Appellate Authority to record evidence and to come to its own conclusion on the questions involved in the appeal is very wide. Even if the evidence is recorded in the domestic enquiry and the order of dismissal is passed thereafter, it will still be open to the appellate Authority to records. if need be, such evidence as may be produced by the parties. Conversely, also if the domestic enquiry is ex parte of no evidence was recorded during those proceedings, the Appellate Authority would still be justified in taking additional evidenced to enable it to come to its own conclusions on the articles of charges framed against the delinquent officer.

20. Here also the Authority (Deputy Labour Commissioner) has also been given the power and jurisdiction to take additional evidence and to come to its own conclusion in respect of the charges framed against an employee. In view of the wide jurisdiction of the Appellate Authority, it cannot be legally to record evidence would be limited only to those cases where no evidence was recorded at the domestic enquiry and the principles of natural justice where violated. In addition to such cases. namely, cases in which an opportunity of hearing was not given to the employee or the principles of natural justice were, in any way, violated, the Appellate Authority shall also have jurisdiction to record evidence, if necessary, in question whether the employee



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was guilty or not of the charges framed against him.

23. In view of the above decisions, there remains no doubt that the Appellate Authority has jurisdiction to take evidence at the appellate stage and to come to its own conclusion about the guilt of the delinquent employee.”

11. This decision contradicts the Petitioner's contention that, in a summary proceeding, only additional evidence can be considered. In any case, two key questions arise: first, whether the Petitioner can challenge an interim order while the main appeal remains pending, and second, the extent of the authority to issue directions for the production of documents.

12. With respect to the production of documents, reference must be made to the judgment of the Bombay High Court in *The 20th Century-Fox Corp. (India) Private Ltd. v. F.H. Lala & Ors.*, reported in 1974 II LLJ 156 (Bom), where the Court examined the scope of the Labour Court's power to order the production of documents. The relevant observations are as follows:

“...before any Tribunal can order production and inspection of documents it must be satisfied as to the relevancy of the documents called for. In order to determine the relevancy, there must be material before the Tribunal. In order that there should be material before the Tribunal the applicant must place it before the Tribunal, and this he can do by setting out in the application the necessary facts, the necessary contentions as to the nature of the documents, the



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necessity for their productions, what kind of reliance he wishes to place thereon and what is the case which he wishes to make out.

....even though filing an affidavit in support of the application for production of documents would be desirable in most cases, it would not mean that it must be necessarily filed in all cases except at the discretion of the Tribunal. What is more important is that any application for production of documents must contain all the necessary materials in order to enable the Tribunal to apply its mind, determine the relevancy of the documents and ascertain whether inspection should be allowed or not and then pass a proper order.

In the present case, the 1st Respondent Appellate Authority has considered the above parameters while directing the production of documents.

13. With respect to interference under Article 226 against interlocutory orders, the Supreme Court, in its decision in *D.P. Maheshwari v. Delhi Administration*, reported in 1983 (4) SCC 293, cautioned courts against engaging in unnecessary litigation. The Court held as follows:

“It was just the other day that we were bemoaning the unbecoming devices adopted by certain employers to avoid decision of industrial disputes on merits. We noticed how they would raise various preliminary objections, invite decision on those objections in the first instance, carry the matter to the High Court under [Art. 226](#) of the Constitution and to this Court under [Art. 136](#) of the Constitution and delay



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a decision of the real dispute for years, sometimes for over a decade. Industrial peace, one presumes, hangs in the balance in the meanwhile. We have now before us a case where a dispute originating in 1969 and referred for adjudication by the Government to the Labour Court in 1970 is still at the stage of decision on a preliminary objection. There was a time when it was thought prudent and wise policy to decide preliminary issues first. But the time appears to have arrived for a reversal of that policy. We think it is better that tribunals, particularly those entrusted with the task of adjudicating labour disputes where delay may lead to misery and jeopardise industrial peace, should decide all issues in dispute at the same time without trying some of them as preliminary issues. Nor should High Courts in the exercise of their jurisdiction under [Art. 226](#) of the Constitution stop proceedings before a Tribunal so that a preliminary issue may be decided by them. Neither the jurisdiction of the High Court under [Art. 226](#) of the Constitution nor the jurisdiction of this Court under [Art. 136](#) may be allowed to be exploited by those who can well afford to wait to the detriment of those who can ill afford to wait by dragging the latter from Court to Court for adjudication of peripheral issues, avoiding decision on issues more vital to them. [Art. 226](#) and [Art. 136](#) are not meant to be used to break the resistance of workmen in this fashion. Tribunals and Courts who are requested to decide preliminary questions must therefore ask themselves whether such threshold part-adjudication is really necessary and whether it will not lead to other woeful consequences. After all tribunals like Industrial Tribunals are constituted to decide expeditiously special kinds of disputes and their jurisdiction to so decide is not to be stifled by all manner of preliminary objections journeyings up and down. It is also worth while remembering that the nature of the jurisdiction under [Art. 226](#) is supervisory and not appellate while that under [Art.](#)



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136 is primarily supervisory but the Court may exercise all necessary appellate powers to do substantial justice. In the exercise of such jurisdiction neither the High Court nor this Court is required to be too astute to interfere with the exercise of jurisdiction by special tribunals at interlocutory stages and on preliminary issues.”

In light of the above, the writ petition should not have been entertained at the outset. Although no interim stay was granted, the issuance of *Rule Nisi* effectively restrained the authority from proceeding with the main appeal. As a result, the matter has remained pending for the past five years, serving no benefit to any party.

14. Regarding the maintainability of the appeal before the 1st Respondent, the counsel for the 2nd Respondent relied on the Division Bench judgment of this Court in *C.R. Ramaswami v. Needle Industries (I) Ltd.*, reported in 1981 Lab IC 765, to argue that a forced resignation can also be challenged before the Appellate Authority under the Shops Act. However, this issue is not relevant to the present writ petition. It is for the 2nd Respondent to raise such contentions before the 1st Respondent when the appeal is taken up for hearing.

15. In light of the above, the writ petition stands dismissed.

However, there shall be no order as to costs. Consequently, the connected



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Miscellaneous Petition is also closed. Following the dismissal of the writ petition, the 1st Respondent is directed to take up the main appeal in TSE Case No. 1/2017 at the earliest and dispose of it expeditiously, in any event, within six months from the date of receipt of this order. In the meantime, the writ Petitioner is directed to comply with the order dated 23.10.2019 passed by the 1st Respondent.

17.03.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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Copy to:

Special Joint Commissioner of Labour
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Appellate Authority under the Tamil Nadu Shops and
Establishments Act, 1947,
Post Box No.476, Teynampet,
Chennai – 600006.
(with records if any)

DR. A.D.MARIA CLETE, J.



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Pre-delivery Judgment in
W.P.No. 5766 of 2020
and
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