



W.P(MD)No.9091 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.11.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.9091 of 2022 and
WMP(MD) Nos.6513 & 6533 of 2022

- 1.The Chief Operating Officer,
GVK-EMRI,
108 Ambulance Service,
Government Kasthirba Women and
Children Hospital Building,
Thiruvallikeni,
Chennai – 600 005.
- 2.The Project Director,
TNHSP, Annex Building,
DMS, Themanpettai,
Chennai.
- 3.The Emergency Management Executive,
GVK-EMRI 108 Ambulance Services,
Karur Government Hospital,
Karur District.

... Petitioners

Vs

- 1.L.Andivel
- 2.M.Kannan (Died)
- 3.G.Manivel
- 4.M.Maliyalan



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5.N.Senthil Kumar

6.Manickam

7.K.Thangaraj

8.S.Mukesh

9.V.Dhinakaran

10.W.Manohar Jeyaselan

11.M.Pazhanisamy

12.M.Kumar

... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order dated 21.02.2020 in I.A.No.3 of 2019 against C.P.No.11 of 2015 on the file of the Labour Court, Tiruchirappalli (Dindigul camp case) and quash the same and consequently direct the Labour Court, Tiruchirappalli (Dindigul camp case) to permit the petitioner to have legal assistance to defend the case filed by the respondents.

For Petitioner : Mr.J.Anandkumar

For R1, R3 to R12 : Mr.T.Sivakumar

ORDER

The petitioner Management is an Agency, maintaining 108 Ambulance service, registered under the Andra Pradesh Societies Registration Act. They have entered into a Memorandum of Understanding with the State Government of Tamil Nadu, for



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providing free emergency services to the general public. The respondents are the employees of the petitioner Management and they have filed a claim petition, under Section 33C(2) of the Industrial Disputes Act, 1947, before the Labour Court, Trichy, claiming bonus and leave encashment and the same was entertained by the Labour Court in CP No.11 of 2015. The petitioner Management has contested the case in person and thereafter has engaged a counsel to defend the Management. Vakalat presented on behalf of the petitioner Management was also entertained by the Labour Court. Therefore, the respondent employees have filed an interim application in I.A.No.3 of 2019, under Section 36 of the Industrial Disputes Act, to revoke the Vakalat, filed on behalf of the petitioner Management and the same was allowed by the Labour Court, by referring to Section 36(3) and 36(4) of the Industrial Disputes Act, by its order dated, 21.02.2020. Aggrieved over the order passed by the Labour Court, Trichy, in I.A.No.3 of 2019, dated 21.02.2020, this writ petition has been filed in the year 2022.



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2.The learned counsel for the petitioner Management submits that when Labour Union is representing the case through a person, who is an expert in labour law, the petitioner Management must also be provided with an opportunity to engage a counsel and therefore, the Labour Court has initially considered the same and entertained the Vakalat filed by the legal practitioner. However, on the objections raised by the respondents/ the Labourers, the Labour Court has revoked the Vakalat already filed on behalf of the petitioner. In this regard, the learned counsel on either side have produced several judgments in support of their contention.

3.This Court considered the submissions made by the petitioner Management and also perused the materials placed on record.

4. Section 36(3) of the Industrial Disputes Act specifically prohibits a party from being represented by a legal practitioner in conciliation proceedings or before a Court. However,



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the same is permitted under Section 36(4) of the Act, if it is with the consent of the other parties. It is relevant to extract the provision under section 36(3) and 36(4) of the Act.

36. Representation of parties:-

(3) No party to a dispute shall be entitled to be represented by a legal practitioner in any conciliation proceedings under this Act or in any proceedings before a Court.

(4) In any proceeding [before a Labour Court, Tribunal or National Tribunal], a party to a dispute may be represented by a legal practitioner with the consent of the other parties to the proceedings and [with the leave of the Labour Court, Tribunal or National Tribunal, as the case may be].

5.It is brought to the notice of this Court that this issue has already been raised in *the Management of Keonjhar Central Co-operative Bank Ltd., vs their workmen*, reported in *1977 AIR (SC) 36*, wherein, the Full Bench of the Honourable Supreme Court has held that a Lawyer cannot appear before the Industrial Tribunal, without the consent of the opposite party and leave of the Tribunal, merely by virtue of a power of attorney executed by a party.



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However, the Honourable Full Bench has clarified that a lawyer can appear before the Tribunal in the capacity of an office bearer of the registered trade union or an officer of association of employees and in that event, no consent of the other side and leave of the Tribunal is necessary. This findings of the Honourable Full Bench has been subsequently referred to another Full Bench of the Honourable Supreme Court in ***Thyssen Krupp Industries India Private Limited Vs. Suresh Maruti Chougule and others***, reported in (2021) 15 SCC 769 that whether the Advocates Act as well as the Industrial Disputes Act can be treated as a Special Act. The Honourable Full Bench, in the said reference has answered the issue that the decisions of the earlier Full Bench in ***Paradip Port Trust Vs. Workmen***, reported in (1977) 2 SCC 339 is proper law and there is no necessity to interfere with. The relevant paragraphs are extracted as under:-

3. Writ Petition (Civil) 1169 of 2018 is filed under Article 32 of the Constitution of India assailing the vires of Section 36(4) of the ID Act. Civil Appeal No. 6587 of 2019 is filed against the order of the Labour Court dismissing the application filed by the appellant seeking permission to engage an advocate.



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4. After hearing the learned senior counsel appearing for the appellants in the two appeals and the petitioner in the writ petition, the learned Additional Solicitor General, the learned senior counsel appearing for the Bar Council of India and the learned senior counsel for the workmen, we are of the opinion that these matters require consideration by a larger Bench.

5. Section 36(4) of the ID Act provides that a party to a dispute in a proceeding before a Labour Court, Tribunal or a National Tribunal may be represented by a legal practitioner with the consent of the other parties to the proceeding and with the leave of the Labour Court, Tribunal or National Tribunal as the case may be. The scope of Section 36(4) of the ID Act was examined in Paradip Port Trust (supra). In the said case, it was urged on behalf of the appellant therein that an advocate shall be entitled to practice in all courts including the Tribunal as of right. Such submission was dealt with by this Court by holding that Section 30 of the Advocates Act has not come into force in view of which there is no right that could be claimed by Advocates to appear before the Labour Courts. Moreover, this Court was of the opinion that the ID Act is a special piece of legislation with the avowed aim of labour welfare. It was further held that the ID Act being a special Act will prevail over the Advocates Act, which is a general piece of legislation with regard to the subject matter of appearance of lawyers before all Courts, Tribunals and other authorities.

6. During the course of arguments, we entertained a doubt regarding the correctness of the finding recorded by this Court that



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the Advocates Act is a general piece of legislation. We have heard the learned counsel on the point as to whether this matter has to be referred to a larger Bench to consider whether the Advocates Act can be treated as a general piece of legislation in respect of appearance of lawyers before all Courts, Tribunals and other authorities.

7.In Queen v.London County Council[(1893) 2 QB 454], Bowen, L.J. lucidly explained the difference between a General Act and a Special Act.

“Now, a general Act, prima facie, is that which applies to the whole community. In the natural meaning of the term it means an Act of Parliament which is unlimited both in its area and, as regards the individual, in its effects; and as opposed to that you get statutes which may well be public because of the importance of the subjects with which they deal and their general interest to the community, but which are limited in respect of area – a limitation which makes them local – or limited in respect of individuals or persons – a limitation which makes them personal.”

8.In LIC v.D.J. Bahadur[(1981) 1 SCC 315], this Court held that the ID Act is a special act vis-a-vis the Life Insurance Corporation Act, 1956. Krishna Iyer, J. was of the view that in determining whether a legislation is a general or a special legislation, focus should be on the principal subject matter and the particular perspective.

9.There can be a situation in law where the same statute is treated as a special statute vis-a-vis one legislation and as a general statute vis-a-vis another legislation. (see Allahabad Bank v. Canara Bank [(2000) 4 SCC 406].



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10. Yet another perspective to the problem that can arise in a conflict between provisions of two different statutes has been dealt with in Ashoka Marketing v. Punjab National Bank [(1990) 4 SCC 406]. The question before this Court was whether the Public Premises Act (Eviction of Unauthorised Occupants) was a special legislation vis-a-vis the Delhi Rent Control Act, 1958. After examining object of both the legislations carefully, this Court was of the opinion that both the Rent Control Act and the Public Premises Act are special statutes.

...

13. The workman is at liberty to engage an advocate, and the fee of the said advocate shall be paid by the Management. The appellant shall be permitted to be represented by an Advocate. As this direction is being given in view of the complaint of the workman that he is suffering due to the delay it is deemed that the workman has no objection to the appellant engaging an advocate. The Labour Court is directed to proceed with Reference IDA No. 121 of 2016 expeditiously and decide the matter within a period of six months from today.

6. In view of the aforesaid decision of the Honourable Supreme Court as cited supra, this Court is not inclined to interfere with the order of the Tribunal. However, the petitioner Management is at liberty to contest the case through any legally qualified person, who is also an employee of the petitioner Management.



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7. With the above liberty, this writ petition is disposed of. No costs. Consequently, connected Miscellaneous petitions are closed.

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