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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ LPA 805/2024 & CM APPL. 47604/2024, CM APPL. 47603/2024,
CM APPL. 49220/2024

THE INDIAN EXPRESS NEWSPAPER WORKERS UNION
(REGD.)Appellant

Through: Ms. Sumedha Sarkar, Ms. Aditi
Gupta, Advocate

versus

THE INDIAN EXPRESS (P.) LTD.Respondent

Through: Mr N. B. Joshi, Mr Anurag Ranjan,
Mr.Shahid Raza, Ms Monika Bansal,
Advocates

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

% **29.07.2025**

1. Though this appeal is against the Order dated 09.08.2024 passed by the learned Single Judge in W.P.(C) 11082/2024, in essence, it is challenging the Order dated 02.08.2024 passed by the learned Industrial Tribunal in ID No. 698/2016.

2. Shorn of unnecessary details, the facts leading to the instant appeal are that a Reference dated 15.10.2009 was made by the Government of Delhi to the Presiding Officer, Industrial Tribunal, Delhi to decide as to whether the demand of workmen represented by the Indian Express Newspaper Workers Union for increasing the retirement age of the workmen from 58 years to 60 years is legal and justified and if so, to what relief are they entitled and what directions are necessary in this regard.



3. The said Reference was answered in favour of the Workmen by an Award dated 31.07.2023 passed by the learned Presiding Officer, Industrial Tribunal-I, Rouse Avenue Courts, New Delhi stating that the demand for increase of the retirement age of the workmen to 60 years is justified and legal.

4. The said Award was challenged by the Respondent herein by filing W.P.(C) 11128/2023, wherein the said Award was set aside by the learned Single Judge of this Court *vide* Judgment dated 15.01.2024 stating that the learned Tribunal failed to properly adjudicate the matter and for that reason, the matter was sent back to the learned Industrial Tribunal for fresh adjudication.

5. The said Judgment was challenged before the Division Bench of this Court by both the Appellant and the Respondent by filing LPA No.234/2024 and LPA No.143/2024 respectively. The challenge to the said Judgment by the Respondent LPA No.143/2024 was withdrawn on 21.02.2024. However, the challenge of the Appellant herein LPA No.234/2024 was disposed of *vide* Order dated 20.03.2024, wherein the Division Bench of this Court has made the following observations:-

“9. In the light of this stand taken by the parties and taking into account that the industrial dispute was raised by the appellant way back in 2009 during which period many of it’s members have superannuated at the age of 58 years, we direct the learned Industrial Tribunal to decide the industrial dispute in terms of the interim order within a period of four months. Furthermore, as prayed for, the appellants are granted two weeks time to tender additional evidence qua documents which formed part of the record of the learned Single Judge with a direction to the learned Industrial Tribunal to grant an opportunity to the



respondents to cross examine the additional witnesses of the appellant. Keeping in view the time frame being directed, the learned Industrial Tribunal will ensure that no unnecessary adjournment is granted to any of the parties.”

6. Pursuant to the Order dated 20.03.2024 passed by the Division Bench of this Court, the Workmen filed an application to bring three documents on record.

7. The documents in question are: (i) appointment letter by Statesman Ltd. showing retirement age of 60 years and (ii) appointment letter by the Printers Mysore Private Limited (Deccan Herald) showing retirement age of 60 years and; (iii) the copy of the balance sheet of the financial year 2021-23.

8. The said application has been challenged by the Respondent by filing another application. Both these applications were decided by the Industrial Tribunal vide Order dated 02.08.2024.

9. While contesting the application filed by the Respondent, the Appellant herein filed a reply. Paragraph 4 of the Order dated 02.08.2024 passed by the learned Industrial Tribunal records the reply filed by the Appellant herein, which reads as under:-

“4. The Workmen/ Union has contested the application by filing a reply.

(a) Paras 3, 4 and 5 of the reply are as follows:

“3. The respondent management in its application has objected to the Mark 'B' and 'C' which are the documents showing the retirement age of 60 years in 'The Statesmen Ltd.' and 'The printer Maysore' and Mark 'D' which is the true copies of the balance sheet for the year 2021-2022 of Indian



Express Pvt. Ltd.

4. It's pertinent to mention that these documents was part of the Additional documents dated 09.10.2023 having diary no. 1856321/2023 and also these crucial documents were filed before the Single bench and relied on by the petitioner union in their arguments (see certified copy of Note of Arguments filed by the petitioner before the Single Bench dated 06.11.2023 at Annexure R-1 herein). The petitioner union was under the bonafide impression that these documents mentioned below were part of the record and were not defective. These documents were extensively relied upon by the petitioner in their arguments and were also received by the respondent management with advance service. The documents were relied upon and respondents were also aware of the same, as can also be seen from the table extracted from the petitioner's note of arguments, pages 13-14, given below. If the petitioners had not filed these documents, they would not have been relied upon by the petitioners in their arguments. Table made in note on arguments dated 06.11.2023 filed by the petitioner giving reference of the documents is as under-



S. No.	Name of the establishment	Retirement age	Document, Page No.
1.	Hindustan Times	60	Counter affidavit dated 10.09.2023 page no. 45
2.	Bennett Coleman Includes · Times of India · Nav Bharat Times · Economic Times	60	Counter affidavit dated 10.09.2023 page no. 46
3.	Statesman	60	List of additional documents dated 09.10.2023, page no. 2
4	Deccan Herald (Publication of The Printers Mysore)	60	List of additional documents dated 09.10.2023, page no. 3
5.	Tribune	60	Revised written note dated 26.09.2023, page no. 9
6.	United News of India (UNI)	60	Revised written note dated 26.09.2023, page no. 6
7.	Press Trust of India (PTI)	60	Revised written note dated 26.09.2023, page no. 8
8.	The Hindu	60	

5. Due to an unintended oversight, the petitioner union learned now, after filing an application for a certified copy of the single bench, that the two sets of documents were not on record before the single bench even though filed, since some were also handed over during arguments and were now found to be in defects. The documents which are now shown as not being part of the whole record received, were filed as follows: (1) additional documents dated 09.10.2023 with diary no. 1856321/2023 and (ii) revised written submissions dated 27.09.2023 diary no. 1802262/2023. These documents are annexed herewith as Annexure R-2 (page no. 14-39) and Annexure R-3 (page no. 40-219) respectively. Purpose of remanding the matter for fresh adjudication would be defeated in the absence of these documents.”

(underlining by me)



(b) In addition, it is submitted by Workman Union that:-

(i) Purpose of remanding the matter for fresh adjudication would be defeated in the absence of these documents,

(ii) Documents not disputed by the Management can be allowed to be tendered as evidence before this Tribunal. ” (emphasis supplied)

10. Primarily relying on the said Paragraph, which was the reply filed by the Appellant, the application has been rejected by the learned Tribunal by holding as under:-

“14. Under the facts and circumstances of the case, the application is allowed. Mark-B, Mark-C and Mark-D and para no. 3 to 8, 10 to 12 and 14 to 20 are deleted from the affidavit of WW2 Vijay Kumar Mahindru and shall not be read.

15. The conduct of the Workmen/ Union in the present matter has been noted in para 2 above. After the remand back of the matter, this is the third time this Tribunal has been called upon to deal with issues regarding which there is no ambiguity and which have been stated very clearly in the order of Hon’ble Division Bench. After remand back, the matter has not proceeded virtually an inch. The intention of the Workmen/ Union is to overreach the order passed by Hon’ble Division Bench time and again and in one way or the other. Precious time of this Tribunal has been wasted by the Workmen/ Union for raking up virtually the same issue again and again.

Keeping in view the totality of the facts and circumstances of the case, the conduct of the Workmen/ Union after remand, I am of the considered view that it is a fit case for imposing exemplary costs upon the



Workmen/ Union. The costs are assessed at Rs. 20,000/- (Rs.Twenty Thousands Only) which I feel is on the lower side. Half of the costs shall be deposited with DLSA and the remaining shall be paid to the Management. ”

11. The said Order was the subject matter of challenge in W.P.(C) 11082/2024, wherein the learned Single Judge held that since it amounts to interpretation of the Order dated 20.03.2024 passed by the Division Bench of this Court, the matter should be referred to the Division Bench and resultantly, this Court is hearing the said challenge.

12. It is contended by the learned Counsel for the Appellant that these documents were a part of the list of additional documents dated 09.10.2023 filed before the learned Single Judge. However, there is nothing to show that these documents were not a part of the list of additional documents filed before this Court. There is also nothing on record to show that these documents were filed along with an application or any permission of the learned Single Judge was sought by the Appellant to bring these additional documents on record. Without taking any permission or leave of the Court or without an application being allowed or permitted by the Court for placing these additional documents on record, the said documents cannot be said to be part of the record.

13. Further, this Court also finds substance in the contention of the learned Counsel for the Respondent that the matter is now at the fag-end of trial, i.e., at the stage of final arguments before the learned Tribunal, and permitting these documents or any other documents to be placed on record at this juncture will not only open the floodgates but also delay the trial, which started with the Reference dated 15.10.2009.



14. In any event, since these documents have been filed without taking permission of the Court or forming a part of the application, the same cannot be said to be the documents taken on record.

15. Any order by this Court permitting the documents to be taken on record would go to the contrary of the mandate of this Court in its Order dated 20.03.2024 and more particularly Paragraph No.9, which has been referred to above.

16. Resultantly, this Court does not find any ambiguity with the Order dated 02.08.2024 passed by the learned Industrial Tribunal which is primarily based on the submissions of the Appellant herein made before the learned Tribunal.

17. The present appeal is, therefore, dismissed along with pending application(s), if any.

18. However, keeping in view of the facts of the case, the costs of Rs.20,000/- imposed on the Appellant by the learned Industrial Tribunal is waived off.

19. Needless to state that it is always open for the Appellant herein to raise any legal contentions which are available to it in accordance with law.

SUBRAMONIUM PRASAD, J

SAURABH BANERJEE, J

JULY 29, 2025

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