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W.A.Nos.6, 7, 8, 9 and 11 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2026

CORAM

THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE R. SAKTHIVEL

W.A.Nos.6, 7, 8, 9 and 11 of 2024

M/s.Suolificio Linea Italia (India) Private Limited
Seddarpet, Puducherry – 605 111
Rep. By its Authorised Signatory
Vengadeshkumar S

... Appellant
in all WAs

VS.

1. K.Sachudanandam
S/o.Kalayanasundaram

... 1st Respondent
in W.A.No.6 of 2024

1. D.Pachamuthu
S/o.Dharmalingam

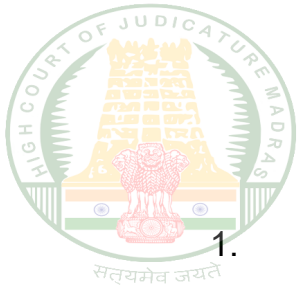
... 1st Respondent
in W.A.No.7 of 2024

1. S.Radhakrishnan
S/o.Subramanian

... 1st Respondent
in W.A.No.8 of 2024

1. S.K.Manikandan
S/o.P.Kalaimurthy

... 1st Respondent
in W.A.No.9 of 2024



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1.

R.Jayamoorthy
S/o.S.Periyasami

... 1st Respondent
in W.A.No.11 of 2024

2.

The Presiding Officer
Labour Court, Pondicherry
Puducherry.

... 2nd Respondent
in all WAs

Writ Appeal No.6 of 2024 filed under Clause 15 of the Letters Patent, praying to set aside the order dated 17.07.2023 passed in W.P.No.7465 of 2013.

Writ Appeal No.7 of 2024 filed under Clause 15 of the Letters Patent, praying to set aside the order dated 17.07.2023 passed in W.P.No.7469 of 2013.

Writ Appeal No.8 of 2024 filed under Clause 15 of the Letters Patent, praying to set aside the order dated 17.07.2023 passed in W.P.No.7468 of 2013.

Writ Appeal No.9 of 2024 filed under Clause 15 of the Letters Patent, praying to set aside the order dated 17.07.2023 passed in W.P.No.7466 of 2013.

Writ Appeal No.11 of 2024 filed under Clause 15 of the Letters Patent, praying to set aside the order dated 17.07.2023 passed in W.P.No.7467 of 2013.

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For Appellant in all WAs : Mr.S.Ravi
Senior Counsel
for M/s.Gupta and Ravi

For Respondents in all WAs : Mr.P.R.Thiruneelakandan
for R1
R2 – Labour Court

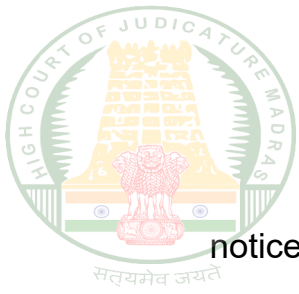
COMMON JUDGMENT

[Judgment of the Court was made by **S. M. SUBRAMANIAM, J.,**]

Under assail is the common order dated 17.07.2023 passed in
W.P.Nos.7465 to 7469 of 2013.

2. The present intra-Court appeals under Clause 15 of Letters Patent have been instituted by the Management against workmen. The workmen entered into a strike, which resulted in issuance of a show cause notice by the appellant – Management on 11.05.2011. The workmen were suspended from service and a charge memorandum came to be issued. A domestic enquiry was conducted and the workmen participated in the process of enquiry. The Enquiry Officer held that the charges were proved and accepting the findings of the Enquiry Officer, the second show cause

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notice was issued to the workmen on 17.08.2011. The explanations submitted by the workmen on the findings of the Enquiry Officer were rejected and punishment of removal from service was imposed on the respondents / workmen on 20.08.2011. Aggrieved, the workmen raised industrial disputes in I.D.Nos.33, 34, 35, 36 and 37 of 2011 on the file of the Labour Court, Pondicherry. The Labour Court allowed the industrial disputes, which resulted in the filing of the writ proceedings by the Management under Article 226 of the Constitution of India. The writ Court confirmed the award passed by the Labour Court and thus, the present intra-Court appeals have been filed.

3. The issues to be determined mainly in the present intra-Court appeals are : (i) whether the Labour Court failed to decide the fairness of the enquiry as a preliminary issue for the purpose of providing an opportunity to the Management in the present case to let in additional evidence, since they had stated specifically in their written statement that, in the event of holding that the enquiry is unfair, they would let in additional evidence before the Labour Court; and (ii) If such an opportunity has been denied to the Management, whether the matter is to be remanded back to



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the Labour Court to provide an opportunity to the Management to let in additional evidence.

4. At the first instance, this Court has considered the longevity of the litigation, which undoubtedly caused prejudice to the interest of the workmen. The matter is pending from the year 2011 and the learned counsel for the respondents workmen would submit that they are not gainfully employed even now, but they are doing some day-to-day jobs in order to maintain their livelihood.

5. Mr.S.Ravi, learned Senior Counsel appearing on behalf of the appellant Management would submit that these workmen are paid 17-B wages throughout the proceedings and therefore, no prejudice caused to the workmen on account of the longevity of litigation. Under these circumstances, this Court thought fit to consider the legal issues raised by the Management, which are of important regarding the procedures to be followed by the Labour Court.



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6. The learned Senior Counsel would mainly contend that in the written statement filed before the Labour Court, the appellant Management, in clear terms, reserved their right to let in additional evidence in the event of Labour Court arriving at a conclusion that the enquiry was not conducted in a fair manner. Relying on the said statement made by the Management in the written statement, he would submit that a valuable opportunity contemplated under law for the Management to let in additional evidence was denied.

7. To substantiate the said statement, he would rely on the judgement of Hon'ble Supreme Court of India in the case of ***the workmen of M/s.Firestone Tyre and Rubber Co. of India (Pvt.) Ltd., Vs. The Management and others*** reported in ***(1973) 1 SCC 813***. In paragraph No.37 of the judgement, the Hon'ble Apex Court considered the similar circumstances and held that an opportunity will have to be given to the parties to let in additional evidence if the domestic enquiry is held to be unfair.



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8. The learned Senior Counsel would rely on the judgement of the Constitution Bench of Hon'ble Supreme Court of India in the case of ***Karnataka State Road Transport Corporation Vs. Lakshmiddevamma and another*** reported in **(2001) 5 SCC 433**. He would rely on paragraph Nos.9, 12, 15 and 17. In a similar circumstance, in the case of ***Management of Kutty Flush Doors and Furniture Company (Private) Ltd., and the Presiding Officer and another*** reported in **2003 (2) LLN 629**, the learned single Judge of the Madras High Court, relying on the principles laid down by the Hon'ble Supreme Court of India, held that letting in additional evidence is a valuable opportunity which need not be denied to the parties before the Labour Court.

9. Mr.P.R.Thiruneelakandan, learned counsel appearing on behalf of the respondents / workmen, would oppose by stating that the Hon'ble Supreme Court of India in the case of ***Delhi Cloth and General Mills Co., vs. Ludh Budh Singh*** reported in **(1972) 1 SCC 595**, laid down procedures to be followed by the Labour Court in conducting trials. In the present case, during trial before the Labour Court, documents were marked and both oral and documentary evidence were adduced by the



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Management and workmen through their respective witnesses, which placed before the Labour Court. The Management did not adduce any additional evidence when the Management witnesses were called upon to mark documents. Thus, the Management has given up their right to let in additional evidence and now they cannot turn around and claim that opportunity to let in additional evidence was not afforded by the Labour Court. The writ Court considered these facts and held that the Labour Court has followed procedures in consonance with the Statutes and more specifically under Section 11-A of the Industrial Disputes Act, 1947 [hereinafter “ID Act” for the sake of brevity] and confirmed the award.

10. The factual scenario is not controverted between the parties.

11. Regarding the procedures to be followed, if the Management, while reserving their right in the written statement, that they may be permitted to let in additional evidence in the event of Labour Court holding that the domestic enquiry is not fair and proper, at what point of time such an opportunity must be allowed to be exercised by the Management is the issue for consideration.

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12. In the present case, parties have adduced oral and documentary evidences regarding the domestic enquiry conducted and the Labour Court admittedly proceeded based on the evidence and passed the final award. The appellant Management would mainly contend that in the absence of deciding the fairness of the domestic enquiry as a preliminary issue, an opportunity to let in additional evidence was denied.

13. Two circumstances may arise. If the Labour Court forms an opinion that the domestic enquiry has been conducted in a fair manner, then the Management is not entitled to let in additional evidence. In such a situation, there would be no impediment for the Labour Court to decide the issues and pass an award. In cases where, during the course of trial, the Labour Court forms an opinion that the domestic enquiry has not been conducted in a free and fair manner, the said issue is to be decided as a preliminary issue, enabling the parties to exercise their option to let in evidence in the context of Section 11-A of the ID Act. The opportunity to let in additional evidence by the parties before the Labour Court is a valuable opportunity afforded under the Statute. In the event of Labour Court deciding the main issue without deciding the above preliminary issue, in



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such circumstances, the opportunity to let in additional evidence is denied and that is exactly the reason why the Courts have emphasised that if the domestic enquiry is found to be not fair and proper, then such an issue is to be decided as a preliminary issue and thereafter, either of the party may express their willingness to let in additional evidence to establish their case. In the event of not deciding the preliminary issue regarding the fairness of the enquiry, then the valuable opportunity to let in additional evidence is taken away. If the Labour Court decides that the domestic enquiry is fair and proper, the question of deciding the preliminary issue regarding the fairness of the enquiry does not arise at all.

14. The above position is amply made clear in the judgment in the case of **Fairstone Tyres case** cited supra. Paragraph No.37 of judgment reads as follows:

“37. If there has been no enquiry held by the employer or if the enquiry is held to be defective, it is open to the employer even now to adduce evidence for the first time before the Tribunal justifying the order of discharge or dismissal. We are not inclined to accept the contention on behalf of the workmen that the right of the employer to adduce evidence before the Tribunal for the first time recognised by this Court in its various



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decisions, has been taken away. There is no indication in the section that the said right has been abrogated. If the intention of the legislature was to do away with such a right, which has been recognised over a long period of years, as will be noticed by the decisions referred to earlier, the section would have been differently worded. Admittedly, there are no express words to that effect, and there is no indication that the section has impliedly changed the law in that respect. Therefore, the position is that even now the employer is entitled to adduce evidence for the first time before the Tribunal even if he had held no enquiry or the enquiry held by him is found to be defective. Of course, an opportunity will have to be given to the workman to lead evidence contra. The stage at which the employer has to ask for such an opportunity, has been pointed out by this Court in Delhi Cloth and General Mills Co. Ltd., Case (supra). No doubt, this procedure may be time consuming, elaborate and cumbersome. As pointed out by this Court in the decision just referred to above, it is open to the Tribunal to deal with the validity of the domestic enquiry, if one has been held as a preliminary issue. If its finding on the subject is in favour of the management, then there will be no occasion for additional evidence being cited by the management. But if the finding on this issue is against the management, the Tribunal will have to give the employer an opportunity to cite additional evidence justifying his action. This right in the management to sustain its order by adducing independent evidence before the



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Tribunal, if no enquiry has been held or if the enquiry is held to be defective, has been given judicial recognition over a long period of years.”

15. The Constitution Bench judgement in the case of **Lakshmiddevamma** cited supra, Hon'ble Supreme Court in paragraph Nos.9, 12, 15 and 17 held as follows:

“9. Bearing in mind the above observations if we examine the various decisions of this Court on this question it is seen that in all the judgments this Court has agreed on the conferment of this right of the management but there seems to be some differences of opinion in regard to the timings of making such application. While some judgments hold that such a right can be availed by the management at any stage of the proceedings right up to the stage of pronouncement of the order on the original application filed either under Section 10 or Section 33(2)(b) of the Industrial Disputes Act, some other judgments hold that the said right can be invoked only at the threshold.

12. The words “before the proceedings are closed” gave rise to some doubts as to whether it is open to the management to seek this right of leading fresh evidence at any stage, including at a stage where the Tribunal/Labour



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Court had concluded the proceedings and reserved its judgment on the main issue.

15. The question again arose in the case of Shambu Nath Goyals case (supra) as to the propriety of waiting till the preliminary issue was decided to give an opportunity to the management to adduce evidence, because after the decision in the preliminary issue on the validity of the domestic enquiry, either way, there was nothing much left to be decided thereafter. Therefore, in Shambu Nath Goyals case this Court once again considered the said question in a different perspective. In this judgment, the Court after discussing the earlier cases including that of Shankar Chakravarti vs. Britannia Biscuit Co. Ltd. & Anr. (1979 (3) SCR 1165), which was a judgment of this Court subsequent to that of Cooper Engineering (supra), laid down the following principles :

“16. We think that the application of the management to seek the permission of the Labour Court or Industrial Tribunal for availing the right to adduce further evidence to substantiate the charge or charges framed against the workman referred to in the above passage is the application which may be filed by the management during the pendency of its application made before the Labour Court or Industrial Tribunal seeking its permission under Section 33 of the Industrial Disputes Act, 1947 to take a certain action or grant approval of the action taken



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by it. The management is made aware of the workman's contention regarding the defect in the domestic enquiry by the written statement of defence filed by him in the application filed by the management under Section 33 of the Act. Then, if the management chooses to exercise its right it must make up its mind at the earliest stage and file the application for that purpose without any unreasonable delay. But when the question arises in a reference under [Section 10](#) of the Act after the workman had been punished pursuant to a finding of guilt recorded against him in the domestic enquiry there is no question of the management filing any application for permission to lead further evidence in support of the charge or charges framed against the workman, for the defect in the domestic enquiry is pointed out by the workman in his written claim statement filed in the Labour Court or Industrial Tribunal after the reference had been received and the management has the opportunity to look into that statement before it files its written statement of defence in the enquiry before the Labour Court or Industrial Tribunal and could make the request for the opportunity in the written statement itself. If it does not choose to do so at that stage it cannot be allowed to do it at any later stage of the proceedings by filing any application for the purpose which may result in delay which may lead to wrecking the



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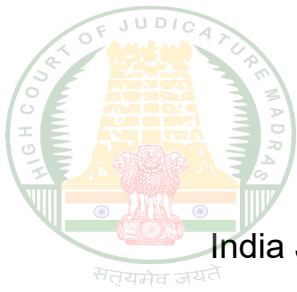


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morale of the workman and compel him to surrender which he may not otherwise do."

17. *Keeping in mind the object of providing an opportunity to the management to adduce evidence before the Tribunal/Labour Court, we are of the opinion that the directions issued by this Court in Shambu Nath Goyals case need not be varied, being just and fair. There can be no complaint from the management side for this procedure because this opportunity of leading evidence is being sought by the management only as an alternative plea and not as an admission of illegality in its domestic enquiry. At the same time, it is also of advantage to the workmen inasmuch as they will be put to notice of the fact that the management is likely to adduce fresh evidence, hence, they can keep their rebuttal or other evidence ready. This procedure also eliminates the likely delay in permitting the management to make belated application whereby the proceedings before the Labour Court/Tribunal could get prolonged. In our opinion, the procedure laid down in Shambu Nath Goyals case is just and fair."*

16. Pertinently, the learned counsel relied on the case of **Management Kutty Flush Doors** cited supra, wherein the learned single Judge of the Madras High Court relied on the Hon'ble Supreme Court of



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India Judgements in paragraph Nos.10 and 11 and held as follows:

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“10. In the light of the pronouncement of the Apex Court, it is clear that first the preliminary issue has to be decided and only thereafter the Labour Court has to proceed further consequentially. At the stage at which the Labour Court is required to decide the preliminary issue, it is not at all required for the workman to let in evidence with respect to the merits of the claim before the Labour Court, since the Labour Court has to decide the preliminary issue at the first instance and, thereafter only it is required to take up the other issues.

11. In *COOPER ENGINEERING LTD. VS. P.P. MUNDHE* reported in 1975 (2) L.L.N. 321 (vide supra), the Supreme Court, while applying the earlier judgment in *Management of Ritz Theatre (Private) Ltd., V Its workmen* [A.I.R. 1963 S.C. 295], the Apex Court held thus, in paras 10 and 22, at pages 324 and 327 :

“10. In Management of Ritz Theatre (Private) Ltd. v. Workmen [A.I.R. 1963 S.C. 295] this Court was required to deal with a rather ingenious argument. It was contended in that case by the workmen, in support of the Tribunal's decision, that since the management at the very commencement of the trial before the Tribunal adduced evidence with regard to the merits of the case it should be held that it had given up its claim to the propriety or validity of the domestic enquiry. While repelling this argument this Court



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made some significant observations:

In enquiries of this kind, the first question which the Tribunal has to consider is whether a proper enquiry has been held or not. Logically, it is only where the Tribunal is satisfied that a proper enquiry has not been held or that the enquiry having been held properly the finding recorded at such an enquiry are perverse, that the Tribunal derives jurisdiction to deal with the merits of the dispute .

If the view taken by the Tribunal was held to be correct, it would lead to this anomaly that the employer would be precluded from justifying the dismissal of his employee by leading additional evidence unless he takes the risk of inviting the Tribunal to deal with the merits for itself, because as soon as he asks for permission to lead additional evidence, it would follow that he gives up his stand based on the holding of the domestic enquiry. Otherwise, it may have to be held that in all such cases no evidence should be led on the merits unless the issue about the enquiry is tried as a preliminary issue. If the finding on that preliminary issue is in favour of the employer, then, no additional evidence need be cited by the employer; if the finding on the said issue is against him, permission will have to be given to the employer to cite additional evidence."

* * * *

22. We are, therefore, clearly of opinion that when a case of dismissal or discharge of an employee is referred for



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industrial adjudication the Labour Court should first decide as a preliminary issue whether the domestic enquiry has violated the principles of natural justice. When there is no domestic enquiry or defective enquiry is admitted by the employer, there will be no difficulty. But when the matter is in controversy between the parties that question must be decided as a preliminary issue. On that decision being pronounced it will be for the management to decide whether it will adduce any evidence before the Labour Court."

17. The factual scenario considered in the above judgements would squarely apply to the present case on hand. In the present case, parties adduced oral and documentary evidence and the Labour Court passed the final award without deciding the fairness of the domestic enquiry as a preliminary issue. Since the fairness of the domestic enquiry has not been decided as a preliminary issue, and the Labour Court proceeded on the basis of the report of the domestic enquiry without granting an opportunity to the Management to let in additional evidence, it passed an award reinstating the workmen. This resulted in denial of opportunity to the Management to let in additional evidence, which they had expressly sought in the written statement filed before the Labour Court.



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18. To answer the issue, whenever the Labour Court, during the course of trial forms an opinion that the domestic enquiry has not been conducted in a free and fair manner, then the said issue is to be decided as a preliminary issue in order to provide an opportunity to the parties to express their willingness to let in additional evidence. If the Labour Court forms an opinion that the domestic enquiry was conducted in a fair manner, then it is not necessary to decide the issue as a preliminary issue and the Labour Court may proceed with the final award. This distinction is of paramount importance in the context of Section 11-A of the ID Act in order to preserve the right to defend the case between the parties. The procedures followed by the Labour Court must pave way for the parties to establish their case through oral and documentary evidences.

19. The Labour Court being a trial Court, provides such an opportunity to let in additional evidence beyond the evidence considered in the domestic enquiry. In view of the fact that in the present case, the appellant / Management had expressed their willingness to let in additional evidence in their written statement filed before the Labour Court and the Labour Court decided the issue finally based on the enquiry officer's report



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and documents and evidences produced, the opportunity to let in additional evidence was denied to the Management. Therefore, this Court is inclined to remand the matter back to the Labour Court for deciding the issue afresh by providing an opportunity to the Management to let in additional evidence.

20. It is made clear that the Labour Court has already held that the enquiry was not conducted in a free and fair manner. That being the position, the Labour Court has to pass an order on the preliminary issue and proceed by providing an opportunity to the parties to let in additional evidence and dispose of the matter as expeditiously as possible, preferably within a period of six months from the date of receipt of a copy of this order. Parties are directed to co-operate for early disposal of the case without seeking unnecessary adjournments. The Labour Court is requested not to grant long adjournments so as to ensure that the matter is disposed of as expeditiously as possible.

21. Accordingly, the Writ Appeals stand allowed. The impugned common order dated 17.07.2023 passed in W.P.Nos.7465 to 7469 of 2013



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and the Awards dated 13.08.2012 passed in I.D.Nos.33, 34, 35, 36 and 37
of 2011 passed by the Labour Court, Pondicherry, are set aside. There
shall be no order as to costs.

(S.M.S.,J.) (R.S.V.,J.)
24.04.2026

Index : Yes
Neutral Citation : Yes
Speaking order

mk

The Presiding Officer
Labour Court, Pondicherry
Puducherry.



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**S. M. SUBRAMANIAM, J.,
and
R.SAKTHIVEL, J.,**

mk

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