

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24/1 /2005

C O R A M

THE HONOURABLE Mr.JUSTICE V.KANAGARAJ

A N D

THE HONOURABLE Mr.JUSTICE T.V.MASILAMANI

Writ Appeal No. 437 of 2000

The Management of
M R F Limited
Chennai.

... Appellant

Vs

1. V. Paramasivam
2. The Presiding Officer
II Additional Labour Court
Chennai.

... Respondents.

Writ Appeal against the order dated 4/2/2000 in W.P.No. 12393 of 1999.

For appellant ...Mr.Sanjay Mohan, Sr. Counsel
for M/s.Ramasubramaniam &
Associates.

For respondents... Mr.V.Prakash for R.1

J U D G M E N T

V.KANAGARAJ, J.

The Writ Appeal is filed against the order of the learned Single Judge made in W.P.No. 12393 of 1999 dated 4/2/2000 and to set aside the same.

2. In the affidavit filed in support of the writ appeal, the petitioner would submit that the appellant, MRF Limited is a Company engaged in the manufacture of tyres and the first respondent was working in "workman" category; that the first respondent was dismissed from

services vide dismissal order dated 15/1/1997, for unauthorised absence, for 75 days between January 1996 and November 1996 and also continuously from 28/11/1996 to 15/1/1997. A detailed show cause notice was issued to him and though opportunities were afforded to the first respondent to appear before the Enquiry Officer, to defend his case, the first respondent failed to participate in the enquiry. Thereafter, the petitioner issued a second show cause notice and since there was no response to the second show cause notice, the first respondent was dismissed from service.

3. The first respondent aggrieved by the order of dismissal, raised a dispute before the II Additional Labour Court, which was numbered as I.D.No.616 of 1997 and also filed an interim application No.I.A.562 of 1998, for a direction, directing the appellant herein to pay 50% of his last drawn salary as subsistence allowance and the same was dismissed by the labour Court vide order dated 17/11/1998. Aggrieved by the above said order, the first respondent filed W.P.No.12393 of 1999 before this Court and sought for a payment of Rs.3,500/- every month as an interim relief and this Court was pleased to allow the writ petition and directed the Management to pay a sum of Rs.2,000/- p.m., from 17/11/1998 till December 1999 and further directed the appellant herein to pay a sum of Rs.2,750/- every month, till the disposal of the Industrial Dispute. Hence the above Writ Appeal.

4. A counter affidavit was filed on behalf of the first respondent stating that he was very active in the Trade Union of the workers of the petitioner Company affiliated to INTUC and also he was the Vice President of M.R.F.Employees Co-operative Thrift and Credit Society for more than eight years. On 27/11/1996, after completing the night shift, the first respondent was called for by the Police Officials attached to the K.K.Nagar Police Station in the morning on 28/11/1996. On 29/11/1996, he was arrested in Crime No.983/95 for offences under Sections 419 and 420 of I.P.C and was remanded to judicial custody only on 3/12/1996; that a temporary bail was granted on 11/12/1996 for four days to attend the marriage of his brother-in-law by the Principal Sessions Judge, Chennai. During that period, the first respondent approached the petitioner Management and informed them about his inability to report for work due to the registration of the criminal case and subsequent arrest and sought leave till he obtained bail in the case. Thereafter, he was released on 3/2/1997 with the condition that he should stay in Vellore and report to the Court and this was relaxed on 28/2/1997; that the first respondent came to Chennai on 3/3/1997, approached the petitioner Management and the petitioner Management was informed orally that he was dismissed from service with effect from 15/1/1997; that before the dismissal, the first respondent was not put on notice of the charges alleged against him and was not served by the show cause notice and the enquiry findings and the dismissal order also was not served on the first respondent; the entire proceedings from the issue of the charge sheet to the issue of the

dismissal order occurred during the period from 19/12/1996 to 15/1/1997, when he was in judicial custody and the petitioner Management was well aware of the fact that he was in judicial custody.

5. The learned counsel for the appellant has filed a reply affidavit in response to the counter affidavit of the first respondent stating that the former employee has an unblemished record of service is factually incorrect as on 43 occasions in the past, he had been dealt with for various acts of misconduct including assault and riotous and disorderly behaviour; that the factory was commissioned in the year 1962 and there has been only one Union operating in the factory in the name and style of MRF Employees Union and the Union has no political affiliation. During his service, he was neither been an office bearer nor was he ever a Committee Member of his department and hence his contentions of active trade Union activities or leader of INTUC Union are devoid of facts and requested this Court to allow the Writ Appeal.

6. Mr. Sanjay Mohan learned counsel appearing for the appellant submitted that while dealing with an interim application, this Court would have to consider, whether a prima facie case existed in favour of the workman to grant interim relief; that therefore, the adjudication is required on merits and the question of any prima facie case existing in favour of the petitioner does not arise unless that is done.

7. The learned counsel would further submit that the legal position with regard to payment of interim relief is well settled and established in law that even in case of permanent workmen being dismissed from service without enquiry, the Management is entitled in law to prove and establish the charges alleged against the workmen before labour Court; that Once the charges are established and proved before labour Court, then the award passed by the labour Court would relate back to the date of dismissal by Management.

8. Regarding Section 11-A of the Industrial Disputes Act, 1947 the Honourable Supreme Court in the case reported in (1973 I-L.L.J 278), has held that 'where a domestic enquiry is found to be defective, the Management can justify the order of dismissal by letting in fresh evidence before the labour Court to prove the charges; that if the reasoning of the first respondent is to be accepted, it would mean that the dismissal order comes into effect only when the award is passed.

9. The learned counsel for the appellant further submitted that Section 17B of the Industrial Disputes Act has been introduced to alleviate the suffering in the case where trial has ended in favour of the employee so that he may get the last drawn salary, when the matter is pending in further proceedings in the High Court or in the Supreme Court. Since the very issue "whether non-employment of the workman was justified or not?" is still pending trial, the learned Judge erred in importing the provisions of Section 17B of the Industrial Disputes Act, 1947 in effect to a situation where there was no Award at all in the matter; that since

the employee has to defend himself, and since he is suffering without employment, he would be entitled to interim relief; that this would be the case, in all cases of non-employment, whereas Industrial Dispute is pending and therefore, this would not be a legal reason to grant relief of payment of salary even while the dispute is pending.

10. The learned counsel for the appellant would further submit that under Section 11-A of the Industrial Disputes Act, 1947 it has been held that whether or not, on merits, the employee has a prima-facie case and whether or not the Management decides to let in evidence, is a right available to the Management. Further more, a prima facie case would depend upon the merits and the reasons for the non-employment and not on the proceedings in the labour Court.

11. Furthermore, the past record of the employee indicated 43 instances of bad behaviour which was dealt with leniently. Therefore, there was no guarantee that the labour Court would grant any relief to the employee, particularly in the facts and circumstances of the case, and if at all any relief was granted equally, there was no guarantee that it would be one of reinstatement, when the factum of unauthorised absence was admitted for reasons not attributable to the employer.

12. The learned counsel for the appellant would further submit that merely because the Management had pleaded its right to let in oral evidence in support of the dismissal order, a prima facie case cannot be held to have had been made out in favour of the employee. In a long run of judgments, it has been clearly held that where the misconduct is established even in proceedings before the labour Court, the doctrine of relation back would apply and the question of granting any relief to the employee from the date of dismissal till the date of Award by the labour Court would not arise. It has been held so by the Honourable Supreme Court of India in the judgments reported in THE DIRECTOR, STATE TRANSPORT, PUNJAB AND ANOTHER Vs. GURUDEV SINGH AND ANOTHER (1998 II LLJ 39) and R. THIRUVIRKOLAM Vs. THE PRESIDING OFFICER AND ANOTHER (1997 I LLJ 400). Therefore, even if the employer establishes the misconduct before the labour Court for the first time, that would not mean that any relief was automatically due to the employee upto that period, nor would it mean that the employee has got a prima facie case, till such time evidence is let in before the labour Court.

13. For instance, at no stage till the point of dismissal, the employee did not even bother to inform the employer about the criminal case that was pending against him, which led to his arrest. Therefore the employer was not in a position to be aware of the criminal case pending against the employee until after the dismissal. More over, when the criminal case had nothing to do with the employer, pendency of the criminal case resulting in the employee having to be away from work, would not automatically be justified, particularly as far as the employer is concerned, the employee has to report to work for which purpose he had

been employed.

14. Mr.Sanjay Mohan, in support of these contentions, would cite the following judgments.(i) THE WORKMEN OF M/s. FIRESTONE TYRE AND RUBBER CO. OF INDIA (PVT.) LTD Vs. THE MANAGEMENT AND OTHERS (1973 1 SCC - 813) - (relevant portion is at page No. 830 - paragraph 37); (ii). THE DIRECTOR, STATE TRANSPORT, PUNJAB Vs. GURUDEV SINGH AND ANOTHER (1998 2 SCC - 159); (iii) THE MANAGEMENT OF THE BIHAR STATE ELECTRICITY BOARD, PATNA Vs. THE WORKMAN OF THE BIHAR STATE ELECTRICITY BOARD AND OTHERS (1971 1 LLJ - 389) (relevant portion is at page 393 - paragraph 9); (iv) NEETA KAPLISH Vs. PRESIDING OFFICER, LABOUR COURT AND ANOTHER(1999-I SCC 517); (v) PUNJAB DAIRY DEVELOPMENT CORPORATION LTD. AND ANOTHER Vs. KALA SINGH AND OTHERS (1997 6 SCC 159)

15. On the contrary Mr.V.Prakash, appearing for the respondent would submit that the first respondent was not put on notice of the charges alleged against him and was not put on notice of the enquiry and even not served with the second show cause memo and the enquiry findings and the dismissal order also was not served on the first respondent.

16.The learned counsel for the respondent would further submit that when the first respondent approached the petitioner Management to inform them about the criminal case and his subsequent arrest and sought leave till he obtained bail in the case; that leave was refused and was orally informed that he was suspended from service; that the petitioner Management had information about his arrest and remand to judicial custody and that he had stoutly contested his bail application and the petitioner Management also came on record as an intervener in CrI.M.P.No.567 of 1997 on the file of the Principal Sessions Court, Chennai stating that there was a prima facie case in favour of the first respondent and the entire proceedings were proceeded ex parte, when he was under judicial custody and the petitioner Management had knowledge of the said fact; that the first respondent would suffer great hardship, if interim relief was not granted to the first respondent.

17. Mr.V.Prakash, learned counsel appearing for the respondent, cited the following judgment cited the following following judgment reported in V.RAMAKRISHNAN AND OTHRS Vs. 1. PRINCIPAL, LABOUR COURT, MADRAS & 2 OTHERS (relevant paragraphs 6, 12) to prove his contentions.

18. The principles of the first judgment cited above reported in THE WORKMEN OF M/. FIRESTONE TYRE AND RUBBER CO., OF INDIA (PVT.) LTD., Vs. THE MANAGEMENT & OTHERS (1973 (I) S.C.C. 513) along with yet another judgment reported in (1972 (1) S.C.C.595) have been considered in the 4th judgment cited (supra) reported in 1999 I SCC 517 and the derivations arrived at by the Honourable Apex Court and held

"In all cases where enquiry has not been held or the enquiry has been found to be defective, Labour Court/tribunal can call upon the management or the employer to justify the action taken against the workman and to show by fresh evidence that the termination or

dismissal order was proper. If the management does not lead any evidence by availing this opportunity, it cannot raise any grouse at any subsequent stage that it should have given that opportunity, as the tribunal, in those circumstances, would be justified in passing an award in favour of the workman. If, however, opportunity is availed of and evidence is adduced by the management."

19. In the second judgment cited above reported in THE DIRECTOR, STATE TRANSPORT, PUNJAB Vs. GURUDEV SINGH & ANOTEHR (1998 (2) SCC 159) the Honourable Apex Court held

"The only question which falls for consideration in this appeal at the instance of the Director, State Transport, Punjab and another is as to whether the High Court was justified in taking the view that the order of dismissal as passed by the Labour Court on inquiry held before it related back to the date of the original order of dismissal passed by the Management or operated prospectively from the date of the order of the Labour Court.

We find that the question raised in this appeal is squarely covered by two decisions of this Court. The first decision has been rendered by a Bench of two learned Judges in the case of Thiruvikolam v. Presiding Officer (1997 I SCC 9: 1997 SCC [L & S] 65). Another decision has been rendered by a Bench of three learned Judges of this Court in the case of Punjab Dairy Development Corporation Ltd., v. Kala Singh (1997 (6) SCC 159 : 1997 SCC [L & S] 1434). It has been held in the aforesaid decisions relying on the earlier Constitution Bench Judgment of this Court in the case of P.H.Kalyani v. Air France, Calcutta (AIR 1963 SC 1756: 2 SCR 1904 : 1963 I LLJ 679) that if an employee is terminated as result of domestic enquiry which is found defective by Labour Court and if the Labour Court on evidence led before it, upholds the decision of the termination of the workman, the termination would relate back to the date of original order of termination and would not operate only from the date of award of the Labour Court. In view of these decisions of this Court, therefore, this appeal has to be allowed. In the result, the appeal appeal and is allowed. It is held that Respondent 1 is not entitled to any back wages from the date of the original order of termination i.e., 12.3.1982 till the date of the award of the labour court i.e., 21.4.1986. Ordered accordingly. No costs.

20. In the third judgment cited above reported in THE MANAGEMENT OF BIHAR STATE ELECTRICITY BOARD, PATNA Vs. THE WORKMAN OF THE BIHAR STATE

ELECTRICITY BOARD & OTHERS (1971 (I) LLJ 389 at 393), the Honourable Apex Court has held

"On the basis of the decision of the Supreme Court in the case of Hotel Imperial reported in AIR 1959 S.C. 1342, I have to hold that the Tribunal has the power to grant such an interim relief under Section 10(4) of the Act. But it follows that whether such a relief is granted by way of a temporary or provisional arrangement during the pendency of the reference case, the order has got to take the form and effect of an interim award under cl.b of Section 2 of the Act. There is no provision in the Act empowering the Tribunal to make an order granting relief to a discharged workman except by way of making an interim award which can be made according to the decision of the Supreme Court under Section 10(4) of the Act, or, I should think, even apart from that, by the force of the definition of the term 'award'. In either case, it has got to take the form of an interim award and in that event the Tribunal must determine that there is a good prima facie case in favour of the workman for final adjudication and, therefore, on the facts of a particular case, granting of interim relief by the interim award is necessary. In absence of such an adjudication of the kind just indicated by me, the Tribunal is not competent to grant interim relief to the discharged workman."

21. In the last and 5th judgment cited on the part of the appellant reported in PUNJAB DAIRY DEVELOPMENT CORPORATION LTD., & ANOTHER Vs. KALA SINGH AND OTHERS (1997 (6) SCC 159) it has been held

"It is clearly laid down in the Constitution Bench decision in P.J. Kalyani and the recent Division Bench decision in R.Thiruvikolam that when the labour court records a finding that the domestic enquiry was defective and opportunity was given to the management and the workman to adduce evidence and then the labour court upholds dismissal order passed by the management, the dismissal order relates back to the date of original dismissal and not from the date of the judgment of the labour court."

remarking a portion of such arguments, the learned counsel appearing for the appellant would pray to allow the writ appeal setting aside the order of the learned single Judge of this Court.

22. On the other hand, the learned counsel for the first respondent would cite the following judgment reported in V.RAMAKRISHNAN 7 OTHERS Vs. PRINCIPAL LABOUR COURT, MADRAS & 2 OTHERS (1994 II LLN 617),

wherein the Division Bench of this Court has held

"If one carefully reads the pleadings, one will come to the conclusion that the real question to be answered in the industrial dispute is whether the workmen had in fact admitted their guilt. This is not simple question to be answered on a cursory examination of the pleadings because even if the compaign on 30 April 1989 and 1 October 1989, had in fact, taken place, the Court has to find out whether the misconduct attributed to the workmen had been established on the basis of the Standing orders.

In a paralled proceeding before the High Court of Karnataka the matter was remitted to Labour Court which on remand awarded 50 per cent of last pay drawn as interim relief.

In resolving labour disputes, the avoidance of delay which causes prejudice only to the workmen, is an important factor. It is no doubt true that the workmen have to establish that they are not employed elsewhere and they will be seriously prejudiced if interim relief is not granted. Even so, there is no allegation that the workmen involved in the writ petition are gainfully employed anywhere. Hence the High Court gave direction, inter alia, granting interim relief of 50 per cent of the last drawn wages from September, 1993."

23. In consideration of the facts pleaded, having regard to the materials placed on record and upon hearing the learned counsel for both what could be assessed by this Court is that it was the writ petition filed by the first respondent before the learned single Judge of this Court in W.P.No.12393 of 1999 seeking the relief to quash the impugned order dated 17.11.1998 made in I.A.No.562 of 1998 in I.D.No.616 of 1997 passed by the Labour Court and consequently direct the first respondent/management to pay the petitioner/employee Rs.3500/- per month as interim relief till the disposal of the I.D.No.616 of 1997 pending before the II Additional Labour Court, Chennai, the 2nd respondent herein and the learned single Judge of this Court has ordered quashing the order of the second respondent/Labour Court in its I.A.No.562 of 1998 in I.D.No.616 of 1997 with a further direction to the appellant/management to pay Rs.2750/- being the 50% of the last drawn wages every month with effects from 17.11.1998 i.e., from the date of the dismissal of the employee/first respondent herein within a period of 4 weeks, further directing the appellant/management to continue to pay Rs.2750/- commencing from January, 2000 to be paid on or before 7th day of every succeeding English calendar month till the disposal of the industrial dispute before it thus allowing the writ petition to the said extent. It is the above order passed by the learned single Judge, is under challenge in the above writ appeal, on such grounds extracted supra.

24. The brief history of the case is that the first respondent/workman employed under the appellant/management was dismissed

from service from 15.1.1997 on accusation of unauthorised absence for 75 days in between January 1996 and November 1996 and also continuously from 28.11.1996 to 15.1.1997 and according to the appellant in spite of a detailed show-cause notice and on failure to participate in the domestic enquiry a second show-cause notice was issued, since there was no response, the first respondent was dismissed from service, aggrieved against which, an industrial dispute was raised before the second respondent/Labour Court in I.D.No.616 of 1997. In the said Industrial Dispute the first respondent has filed an I.A.No.562 of 1998 seeking a direction to the appellant management to pay 50% of his last drawn wages as subsistence allowance and since the said application was dismissed vide its order dated 17.11.1998 by the Labour Court the first respondent employee has filed W.P.No.12393 of 1997 seeking a payment of Rs.3500/- every month before the Labour Court as interim relief and since the learned single Judge of this Court has allowed the said writ petition to the extent indicated supra as per its order dated 4.2.2000, aggrieved, the appellant/management has come forward to prefer the above writ appeal on such grounds extracted supra.

25. Factually countering the allegations that during the relevant period alleged, the petitioner/employee was in unauthorised absence. On the part of the workman it would be alleged that he was an active trade unionist affiliated to INTUC besides being Vice President of the Co-operative Thrift & Credit Society for a number of years; that on 27.11.1996 he was called by the K.K.Nagar Police, when he was returning after completion of his night shift and thereafter the next day morning in connection with the case registered in Crime No.983 of 1995 of the said Police Station for the commission of the offences under Sections 419 and 420 I.P.C. causing the arrest of the petitioner was remanded to judicial custody and therefore till he was released on bail he was not able to attend to his duty and thereafter he was informed that he was dismissed from service with effects from 15.1.1997 without even putting him on notice and since the entire proceedings right from the issue of the charge sheet and till the dismissal order are taken place during 19.12.1996 and 15.1.1997 when he was in judicial custody to the knowledge of the management.

26. However, this court is not deciding the case of dismissal on merits which is pending before the Labour Court on Industrial Dispute Proceedings and hence straight-away it would discuss the merit of the points for consideration; that during the pendency of the Industrial Dispute whether a dismissed workman by the management seeking to quash the order of dismissal is entitled to seek interim direction for payment of 50% of his last drawn wages as subsistence allowance, as it has been sought for on the part of the first respondent before the labour court since the labour court discussed the said application as per its order dated 17.11.1998. Aggrieved the first respondent/workman has filed the said writ petition before this court seeking to an interim relief for payment of Rs.3500/- every month and the order passed by the learned single Judge of this Court partly allowing the above writ petition

granting the relief extracted supra, against which the management has come forward to file the above writ appeal.

27. For the point in issue the learned counsel appearing on behalf of the appellant/management would vehemently argue to the effect that while dealing with such an interim application, this court has to consider whether prima facie case exists in favour of the workman so as to grant interim relief. The learned counsel would further point out that the law is settled to the effect that in case of dismissal of the workman from service without enquiry, the management is entitled to in law to prove and establish the charges alleged before the Labour Court and once it is thus proved then the award passed by the Labour Court would relate back to the date of dismissal by the management, which has been spelt out by the Honourable Apex Court in its judgment reported in (supra) 1973 (I) LLJ 278. extracted supra cited 17-B of the Industrial Disputes Act, 1947. The learned counsel would point out that this Section has been introduced to alleviate the suffering in case the trial ends in favour of the employee so that he may get the last drawn wages that; since from the issue regarding the decision of the non-employment of the workman is pending trial, the learned judge erred in importing the provisions of Section 17-B of the Industrial Disputes Act, 1947; that the workman would suffer without employment would not be a reason to grant the relief in payment of wages during the pendency of the dispute. The learned counsel would further submit that merely because the management had pleaded its right to let in oral evidence in justification of the dismissal order a prima facie case cannot be held to have been made out in favour of the employee as it has been pointed out by the Honourable Apex Court in its judgment reported in (supra) 1988 (II) S.C.C. 159 and 1997 (I) LLJ .. mentioned supra. Even the judgment cited on the part of the appellant would lay emphasis on this point which the learned counsel stressed.

28. On the contrary, the learned counsel appearing on behalf of the first respondent/workman would argue to the effect that the very fact neither that show-cause notice, nor notice of enquiry have been served on the employee nor any participation made on the part of the employee after adequate notice of enquiry as warranted under law and in such a situation absolutely without any opportunity for the workman to be heard besides vindicating that there is a prima facie case in his favour would also show that the dismissal order has been passed in violation of the principles of natural justice that when the first respondent approached the appellant to inform them all the situations under which he was not able to attend to the job and sought leave, he was refused the leave orally and informed that he was suspended from service in spite of the management having informed of the arrest and remand to judicial custody besides stoutly opposing the bail application an intervener and thereby revealing the vindictive attitude of the management in victimizing the first respondent/workman that for survival the interim relief is quite necessary and the same has been passed fittingly by the learned single Judge and therefore it is necessary on the part of this Court to go into and assess the order of the learned single Judge against which the above

writ appeal has been preferred. A careful study of the order of the learned single judge would reveal that having taken stock of the facts and figures concerned with the case on hand and in full consideration of the point discussed on the subject concerned with the I.A.No.562 of 1998 seeking a direction for subsistence allowance and an interim measure pending disposal of the I.D.No.616 of 1997 and having taken note of the said application having been dismissed by the Labour Court opining that the petitioner should have approached the authority constituted under the Tamilnadu Payment of Subsistence Allowance Act, 1981 for a direction and further having paid full attention to the cases cited in the context of the subject on the part of the individual workman by the learned counsel i.e., the cases reported in 1991 (1) ILR Madras 148 Division Bench), 1971 LAB I.C.388: 1971 I LLJ 389) and 1989 I LLN 778) and the learned Judge on the point raised on the part of the petitioner seeking a direction to the management to pay the interim relief on facts of the case and further study of the case since there was a prima facie case in favour of the petitioner/employee citing the above cases in proper perspective and having had a patient hearing of both the learned counsel particularly the learned counsel for the management who argued to the effect that the Labour Court, though had the authority and power to grant interim relief, such interim relief cannot be measured as a matter of course without taking into consideration of the relevant aspects prior to issuing such a direction as per the binding decisions of the Upper Forums of law further pointing out that in spite of the workman's salary was Rs.4000/- he has sought for Rs.3500/- as 50% on his monthly salary as subsistence allowance as though his monthly salary was Rs.7000/- and bringing out such other anomalies, the learned single Judge having had his own discussions on the subject of granting interim relief would not only find that the writ petitioner, the first respondent herein had a prima facie case for the substantial question to be tried and therefore the possibility of the courts towards the grant of the interim relief in payment of the subsistence allowance being sound, would find that the Labour Court instead of side tracking the issues, should have ordered the subsistence allowance and further taking into consideration that the petitioner/employee's last drawn wage was Rs.4000/- would order the payment of a sum of Rs.2000/- being the 50% of the last drawn wages every month directing the management to pay the same with effects from 17.11.1998 on which date the second respondent Labour Court dismissed the application further granting 4 weeks time for the management to comply with the order of the Labour Court. The learned single Judge would further direct that the management shall continue to pay the said sum of Rs.2750/- every month commencing from January, 2000 and such payment shall be made on or before 7th day of every succeeding English calendar month till the disposal of the I.D.No.616 of 1997 pending on the file of II Additional Labour Court, Chennai.

29. In consideration of all these factual situation discussed above, regarding the subject in hand and having regard to the materials placed on record and in consideration of the arguments advanced by the learned

counsel for both particularly in consideration of those judgments cited by both regarding not only the powers of the Labour Court in granting interim relief providing the subsistence allowance as an interim measure pending disposal of the I.D.No.616/97 particularly for the present, past and future, this Court is able to find that the learned single Judge having considered all the factual and legal points, has arrived at the conclusion to grant the relief extracted supra in which we are not able to find any factual or legal inconsistency or infirmity or patent error or perversity in approach and therefore this Court is of the view that the interference of this appellate forum sought to be made into the learned single Judge's considered and merited order is neither necessary nor warranted in the circumstances of the case and hence the following order.

In result,

(i) the above writ appeal does not merit acceptance and the same is liable to be dismissed and is dismissed accordingly;

(ii) The order of the learned single Judge of this Court passed in W.P.No.12393 of 1999 dated 4.2.2000 is confirmed.

(iii) consequently, connected W.A.M.P.No.4015 of 2000 is also dismissed;

(iv) The second respondent herein i.e., The Presiding Officer, II Additional Labour Court, Chennai is directed to dispose of the I.D.No.616 of 1997 pending on his file within a period of 3 months from today.

(v) There shall be no order as to costs.

Sd/-
Asst. Registrar.

/true copy/

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Sub Asst. Registrar.

mvs/ks

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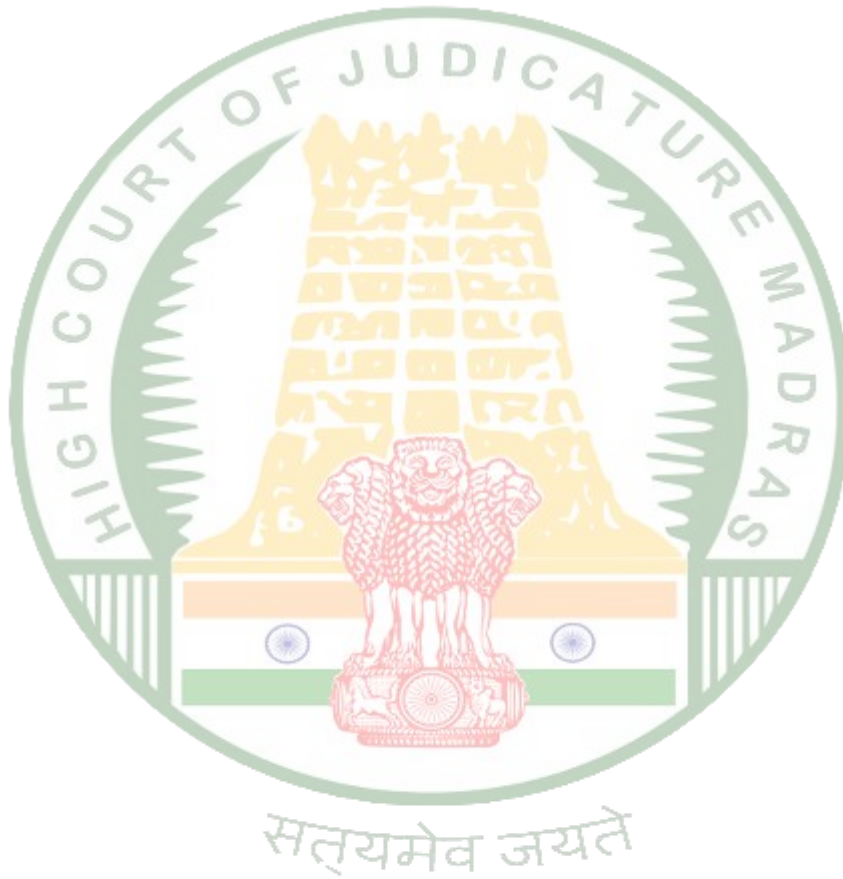
The Presiding Officer,
II Additional Labour Court,
Chennai.

+ 1 CC to Mr.V.Prakash, Advocate SR NO 2817

+ 1 CC to M/s.S.Ramasubramaniam & Associates, Advocate SR NO 2788

Writ Appeal No. 437 of 2000
24.1.2005

ra(co)
gp/9.3.



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