IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: July 31, 2023

\+ W.P.(C) 1534/2021, CM APPLs. 37848/2022 & 12346/2023

GOVERNMENT OF INDIA PRESS WORKERS ASSOCIATION AND ORS. ..... Petitioners

Through: Dr. Sarvana Raja P.V., Adv.

versus

CENTRAL ADMINISTRATIVE TRIBUNAL AND ORS ..... Respondents

Through: Mr. Chetan Sharma, ASG &
Mr. Anil Soni, CGSC with Mr. Amit Gupta, Mr. Saurabh Tripathi and Mr. Vikramaditya Singh, Advs. for UOI
Mr. Hari M.P., Deputy Director (Admn.), Mr. C. Ravindran, Consultant (Admn.), Mr. Ravinder Kumar, Assistant Section Officer, Admn. and Ms. Sheetal Kumari, Legal Assistant

AND

\+ W.P.(C) 1535/2021, CM APPL. 12284/2023

GOVERNMENT OF INDIA TEXT BOOK PRESS WORKERS ASSOCIATION

..... Petitioner

Through: Mr. Shanth Kumar V. Mahale, Adv.

versus

GOVERNMENT OF INDIA AND ORS.

..... Respondents

Through: Mr. Chetan Sharma, ASG &
Mr. Anil Soni, CGSC with Mr. Amit

Gupta, Mr. Saurabh Tripathi and Mr. Vikramaditya Singh, Advs. for UOI
Mr. Hari M.P., Deputy Director (Admn.), Mr. C. Ravindran, Consultant (Admn.), Mr. Ravinder Kumar, Assistant Section Officer, Admn. and Ms. Sheetal Kumari, Legal Assistant

AND

\+ W.P.(C) 1537/2021

DHANESHWAR PRASAD AND OTHERS

..... Petitioners

Through: Mr. Jayanth Muth Raj, Sr. Adv. with Mr. Subhash Chandran K.R., Ms. Krishna LR and Mr. John Thomas Arakal, Advs.

versus

UNION OF INDIA AND OTHERS

..... Respondents

Through: Mr. Chetan Sharma, ASG & Mr. Anil Soni, CGSC with Mr. Amit Gupta, Mr. Saurabh Tripathi and Mr. Vikramaditya Singh, Advs. for UOI
Mr. Hari M.P., Deputy Director (Admn.), Mr. C. Ravindran, Consultant (Admn.), Mr. Ravinder Kumar, Assistant Section Officer, Admn. and Ms. Sheetal Kumari, Legal Assistant

AND

+ W.P.(C) 5668/2023 & CM APPL. 22178/2023

GOVERNMENT OF INDIA PRESS WORKERS ASSOCIATION & ORS.

..... Petitioners

Through: Dr. Sarvana Raja P.V., Adv.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Anil Soni, CGSC
Mr. Sushil Kumar Pandey (SPC) and
Mr. Kuldeep Singh, Adv.

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO
HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

J U D G M E N T

V. KAMESWAR RAO, J

CM APPL. 37848/2022 in W.P.(C) 1534/2021

This is an application filed by the applicants / petitioners for bringing additional facts on record. For the reasons stated in the application, the same is allowed. Additional facts are taken on record.

Application stands disposed of.

W.P.(C) 1534/2021
W.P.(C) 1535/2021
W.P.(C) 1537/2021
W.P.(C) 5668/2023

1. This batch of four petitions involve a similar issue based on more or less similar facts and are being decided by this common

order/judgment.

2. W.P.(C) 1534/2021, W.P.(C) 1535/2021 and W.P.(C) 1537/2021 were earlier filed before the Madras High Court, High Court of Karnataka at Bangalore and High Court of Himachal Pradesh at Shimla respectively and have been transferred to this Court by the Supreme Court in terms of its order dated December 09, 2019 and have been renumbered accordingly. W.P.(C) 1534/2021 primarily involves a challenge to an interim order dated January 12, 2018 passed by the Central Administrative Tribunal, Madras Bench in O.A. 1787/2017 whereby the prayer of the petitioners seeking a stay of the transfer of the employees of the petitioner No.1 association to Nashik in view of the closure of the Government of India Press at Coimbatore resulting in their redeployment in the Government of India Press, Nashik, has been rejected by the Tribunal stating that the petitioners have an all India transfer liability and that the redeployment is pursuant to a decision taken by the Union Cabinet to merge 12 out of 17 Government of India Presses.

3. W.P.(C) 1535/2021 has been filed by the Workers' Association with the following prayers:-

> *"(i) not to transfer or relieve the employees/ members of Petitioner union who are in the Respondent No.3 press as per list at Annexure-B and;*
> *(ii) not to precipitate the process of closing or merging of the Government of India Text Book Press Mysore, Respondent No.3 herein, during the pendency of this writ petition, in the interest of justice and equity."*

4. It is the case of the Association that on September 20, 2017 a

press note was issued by the Press Information Bureau, Government of India, of a Cabinet decision announcing the rationalisation / merger and modernisation of 17 Government of India Presses into five Government of India Presses at (1) Rashtrapati Bhavan, (2) Minto Road (3) Mayapuri, all in New Delhi, (4) Nashik in Maharashtra and (5) Temple Street in Kolkata.

5. Accordingly, an Office Memorandum dated September 29, 2019 was issued by the Government of India imposing restrictions on all the government presses in matters relating to the appointment and promotion of employees. On October 06, 2017, a representation was made by the petitioner Association. It is the case of the petitioners that the Government of India established the respondent No.3 Text Book Press in the year 1976 with an objective to help further the education policy of the Government of India for printing text books of School going children in the southern region. Presently, there are 21 employees working in different designations, discharging their duties and responsibilities and even though there is shortage of man power. The Press is busy with huge workload and about 120 job orders are pending now. The Press is running well and the employees are well settled with their family, showing the dedication and commitment towards their responsibilities. Surprisingly, an announcement was made on September 20, 2017 about rationalisation / merger and modernisation of 17 Government of India Presses into 5 Presses. The redeployment of the employees working in these Press at Mysore to the Government of India Press, Nashik is totally overlooking the unanimous recommendation of the 18th report of the Standing

Committee of Urban Development, Government of India to retain all the Government of India Printing Presses and as such the closing of the respondent No.3 Press at Mysore is illegal, irrational and the same is in violation of the principle of fairness and natural justice. That apart, it is their submission that respondent Nos.1 and 2 i.e., Ministry of Housing and Urban Affairs and Directorate of Printing, have not issued any notification or passed any orders for closing the Government of India Printing Presses including the Press at Mysore. However, the respondent Nos.1 and 2 have initiated closing down the Presses by issuing directions not to take work orders and to expedite the pending works on or before December 31, 2017 and calling for various particulars of workers, machineries and equipment from all the Presses. No notice or information in this regard have been issued to the workers of the Press at Mysore, so as to enable them to give an opportunity to express their views. In substance, it is an attempt to unilaterally close the Press at Mysore along with other Presses, which is totally arbitrary and illegal. Rather, according to them, the recommendation of the Standing Committee was to modernise all Government of India Presses including Text Book Presses on a war footing and hence, the decision of the Government of India to merge them is totally arbitrary. In fact, it is stated that, the closure/merger of the Presses indirectly supports the private printing sector and it would lead to escalation of printing expenditure and more over, most of the printings jobs of Government of India are absolutely sacrosanct and where confidentiality is of the essence, which cannot be expected from private resources.

6. The absence of any Government Press in South India causes serious inconvenience to various government departments and the action to close all Presses situated in the southern region is in violation of Article 14 of the Constitution of India. That apart, if the impugned decision is implemented, the employees and their families at Mysore may require to move to Nashik to save their livelihood. The children of the employees of respondent No.3 Press are studying at Mysore in state syllabus schools. The transfer of these employees would affect the education of their children, apart from other linguistic and resettlement issues. The climate condition is entirely different in Nashik and the language (Marathi/Hindi) in Nashik is also entirely different. The employees of the Press being the technical hands, do not know either Marathi/Hindi or English which may make working at Nashik difficult. That apart certain employees and their aged parents and in-laws are also living together. In the event of their transfer to Nashik, leaving behind them will be inhuman and they would be put in great agony and prejudice. Some employees have been working at the Press at Mysore for more than 30-35 years and others from 20-25 years regularly. At the fag end of their service, the respondents are trying to victimise the members of the petitioner Association and put them under undue pressure and agony. In view of this, the principle of promissory estoppel will attract and also the employees were under reasonable or legitimate expectations which have been violated by the Government of India.

7. The petition being W.P.(C) 1537/2021 has been filed by 84 petitioners praying for the following reliefs:

i) *That a writ in the nature of mandamus, or any other appropriate writ, order or direction may very kindly be issued thereby directing respondent Nos. 1 and 2 to merge / shift the petitioners and respondent No.3 Press, to New Delhi, by further quashing and setting aside order dated 29.11.2017, Annexure P-10 and order dated 5.12.2017, annexure P-11.*

ii) *That issue a writ in the nature of mandamus or any other appropriate writ, order or directing respondent Nos. 1 and 2 to implement all the recommendations of Standing Committee on Urban Development, Government of India in its 18th report dated 9.8.2017, so far as the Government of India Press, PTC Tutikandi is concerned.*

iii) *Issue any appropriate writ, order or direction.*

Any other and further order which this Hon'ble Court deems fit and proper be also passed."

8. It is their case that Government of India Press, Shimla is one of the oldest printing presses of the country having been established in the year 1872. It has a long history of printing top secret documents and is considered to be the best Press in the Country. The working of the Press is unblemished on account of hard work, honesty and due diligence of its employees.

9. On September 30, 2002 it was decided that four Government of India Press Units would be closed by the end of April, 2003. Representations were made against the decision giving details including the fact that the Press has always been in profit. Despite that decision was not implemented and the Government of India reviewed its earlier decision, and directed modernisation of the Press. It was also decided that not only will the Press be retained, but the same would be

converted into a Production-cum-Training Centre. Pursuant thereto, the Government of India Press, Shimla has been working effectively. Time to time, the Press has been modernised and the petitioners herein have been given training to handle the modernised equipments and machines. However, to the shock of the petitioners, the Union Finance Minister on September 20, 2017 made an announcement of the rationalisation / merger and modernisation of 17 Government of India Presses into 5 Government of India Presses at (1) Rashtrapati Bhawan, (2) Minto Road, (3) Maya Puri, at New Delhi, (4) Nasik at Maharashtra and (5) Temple Street at Kolkata. The five Presses will be re-developed and modernised and the surplus land measuring 468 acre shall be given to the Land and Development Office, Ministry of Urban Development, Government of India. Directions have been issued not to conduct any further DPC leading to promotion and not to fill up posts by way of direct recruitment. The petitioners have also made reference to the Parliamentary Committee Report on the subject "*Modernisation of Directorate of Printing, Govt. of India, Stationary Office and Department of Publication*". In the report, recommendations have been made about modernisation and development of presses and the Committee has opposed their closing / merger. Despite the clearance and specific recommendations of the Standing Committee it has been announced that Cabinet has approved the merger of 17 Government of India Presses into 5 as noted above.

10. The petitioners submitted various representations to the Minister of State, Housing and Urban Development and other authorities opposing the rationalisation / merger of respondent No.3

Press. Similar representations have been made by the other Unions which were affected by rationalisation / merger and closure on the basis of the decision.

11. Surprisingly, all of a sudden, an Office Memorandum dated November 29, 2017 was issued for merger of 17 Government of India Presses into 5 Presses and further to complete the process latest by December 31, 2016. It was further conveyed through the Office Memorandum that officials of printing machines, binding sections and other sections will be re-deployed to other presses. An order dated December 15, 2017 was issued whereby half of the strength was ordered to be relieved in the afternoon of December 15, 2017 and that too without conveying the decision to the individuals. The submission is that the decision of merger / rationalisation of the Presses is highly arbitrary, capricious and unreasonable. There is no valid reasons for taking such a decision, ignoring all the earlier decisions taken at the highest level. Therefore, the same cannot be sustained in the eyes of law and is liable to be quashed and set aside.

12. W.P.(C) 5668/2023 has been filed challenging the order dated July 05, 2021 passed by the Principal Bench of the Central Administrative Tribunal in O.A. No. 2102/2020. It is the case of the petitioner that the Government of India Press, Coimbatore, established in the year 1964, carries on the business of printing books, publications, reports and certain forms. The Press has been consistently topping production amongst rest of the government presses. It is stated that the decision of the Union Cabinet to rationalise/merge and modernise the 17 Presses into five Presses, would mean that the largest

Press in South India would be closed and the employees would be relocated to far off places.

13. The petitioners being aggrieved by the decision of merger preferred an O.A. before the Madras Bench of the Tribunal being O.A. No.1787/2017 *inter alia* to declare the decision of the respondents to close the Coimbatore Press and also issuance of the order dated November 14, 2017 bearing GIP/PMR-59066/17/18/Estt./Merge/43 as illegal, arbitrary, contrary to law and in violation of Sections 9-A and 25-O of the ID Act.

14. In pursuance of the order of the Supreme Court dated December 09, 2019 to transfer various proceedings pending before different High Courts and different Benches of the Central Administrative Tribunal to be heard by this Court, the respondents preferred the transfer petition bearing PT No.100/106 of 2020 in O.A. No.310-1787/2017. It is stated that the Principal Bench of the Tribunal erroneously disposed of O.A. No.2102/2020 vide the impugned order dated July 05, 2021 along with other batch matters despite the stay order dated February 01, 2018 passed by the Madras High Court still being in operation.

15. On the other hand, the case of the respondents is that the Government of India Press at Shimla, Coimbatore and Mysuru are part of 17 Government of India Presses under the administrative control of Directorate of Printing and attached Office of Ministry of Urban Development (now Ministry of Housing and Urban Affairs). Over the years printing technology and equipment have advanced exponentially. Further, the Presses have continued to function without upgradation of

printing technology or machinery or equipment. The 17 printing Presses of the Government of India use obsolete technology. Both machinery and equipment are outdated and have outlived their useful lifespan. Some of them are 150 years old. With developments such as increasing use of information technology and soft copies, the printing work in all the Presses has declined. Modern colour printing and spiral binding work is also not possible due to lack of required technology and machinery in the Presses. Due to these constraints, the Presses are not at par with advanced printing technologies available in the private sector and also use time taking obsolete printing techniques. Hence, Ministries/Departments preferred getting their printing requirements done through private printers. Further, the cost of printing in these Presses is very high as compared to the printing by private printers.

16. This situation of decline in work orders and obsolete equipment/technology coupled with manpower shortage in the Presses has been engaging the attention of the Government of India and these issues were also examined at different levels by a Group of Secretaries as well as by Parliamentary Standing Committee on Urban Development. After considering the matter in great detail and in the light of the state of affairs of these Presses, the government has initiated a number of steps to address the issues of obsolescence of plant and machinery, including introduction of modern technology and equipment, rationalisation of manpower to increase efficiency of production, optimum use, of resources including land and manpower in order to efficiently perform the sovereign function of printing for the Government of India. It is to achieve these objectives, it has been

decided to rationalise / merge the Presses and subsequently modernise these Presses through redevelopment and monetisation of surplus land in these five Presses to undertake important, urgent and confidential printing work of Government offices all over the country. While the land of the merged Presses is proposed to be handed over to the Land & Development Office, Ministry of Urban Development, the land of the Press located at Mysore, Bhubaneswar and Chandigarh is proposed to be handed over to the respective State Governments as the land was allotted to them on long-term lease basis. The orders to re-deploy the existing employees of the Press have already been issued on December 5, 2017.

17. It is also submitted that taking initiatives and steps with a long-term vision to carry out the sovereign functions of the Government of printing of government publications which include the statutes, notifications, orders, reports is well within the competence of the respondent and these steps have been taken keeping the public interests in mind. No officer or employee of the government recruited or deployed for carrying out this sovereign function of the Government has any lien or inherent right to challenge the decision of the Government of rationalisation and merger of these Presses. The officers and employees performing these functions are duty bound to honour the decision of the Government of India regarding their postings and transfers in public interest.

18. It is stated that the decision of the respondents is a policy decision taken in public interest and in the discharge of sovereign function of the Government. As such this Court does not have the

jurisdiction to question the policy decision of the Government and to examine its merits. In the given background, the stand of the respondent is that these petitions are devoid of merit and need to be rejected. At this stage, we may also note that the Original Application filed by the petitioners before the Central Administrative Tribunal came to be decided vide order dated July 5, 2021.

19. Mr. Shanth Kumar V. Mahale, learned counsel appearing for the petitioners in W.P.(C) 1535/2021 has reiterated the stand taken by the petitioners in their petition. Additionally, he would submit that the Directorate of Printing has been making several internal correspondences alleging that there is a cabinet decision for rationalisation or merger of the Presses. However, no gazette notification or Government circular has been published or issued being a product in furtherance of the Cabinet decision. No one including the Petitioner is aware of the contents of the Cabinet decision taken by the Cabinet in relation to merger or rationalisation of Presses and how many printing presses are going to be merged and what scheme has been formulated for protection of the interest of the employees are not forth coming. According to him, without disclosing the contents of the alleged Cabinet decision, the Directorate of Printing is making several correspondences in relation to merger or closure of the respondent No.3 Press at Mysore. In any case, it is his submission that though a decision has been taken to re-deploy the employees, no redeployment scheme or planning has been framed. His submission is re-deployment is different than transfer. He alleged that the Mysore Press which is going to be closed would be merged with the printing Press at Nashik,

Maharashtra. That being so the employees working in the printing Press at Mysore would be treated as surplus employees. In case of any redeployment, it must be by way of scheme of redeployment in order to protect the interests of the employees relating to their tenure of service, salary, seniority and all other benefits. Absence of re-deployment scheme shall be highly arbitrary and violative of fundamental rights. He also referred to the Parliamentary Standing Committee which submitted its 18th report to contend that the same has recommendations for retention of all the printing presses and for modernisation of the same. He submitted that the merger is nothing but an extraneous consideration and the same has been undertaken to initially push the Presses to become sick and thereafter close it down.

20. He submitted that the Mysore Press is very busy with a huge work load and even 100 work orders are pending. Even though the manpower was curtailed by the respondent Nos.1 and 2, the members of petitioner Union have successfully executed several work orders working day and night. The employees have been working for the last 25-30 years and most of them are at the fag end of their carrier. They do not know, Hindi, Marathi or English. They are staying with aged parents, their children are studying, they are all C-group employees and sending them to another state is highly arbitrary and amounts to victimisation. Hence the decision is totally unfair. He submitted that there are several pronouncements of the Supreme Court and High Courts that even a policy decision can be subjected to judicial scrutiny or judicial review if the same is arbitrary, unfair, based on extraneous consideration, contrary to law and is in violation of any fundamental

rights. He has referred to the Judgment of the Supreme Court in ***BALCO Employees Union v. Union of India & Ors., AIR 2002 SC 350*** and of this of this Court in ***Airports Authority of India and Ors. v. Mahesh Kumar Sethi and Anr., (2019) 257 DLT 6.*** Hence the impugned action of the respondents is liable to be set aside.

21. Dr. Sarvana Raja P.V., learned counsel appearing for the petitioners in W.P.(C) 1534/2021 and W.P.(C) 5688/2023 would submit that the petitioners are Group 'C' employees of the Government of India Press, Coimbatore which was successfully functioning from the year 1965 onwards till 2017. He also referred to the decision of the Cabinet and also the order dated November 14, 2017 with regard to the merger of 17 Presses into 5 Presses. According to him, the decision is illegal, arbitrary, contrary to law and in violation of Section 9-A and Section 25-O of the Industrial Disputes Act, 1947 ('ID Act', for short). He submitted that the grievance of the petitioners in W.P.(C) 1534/2021 is primarily to an interim order dated January 12, 2018 passed by the Central Administrative Tribunal, against which the petitioners had filed a petition being W.P. (C) 1311/2018 before the Madras High Court which vide its order dated February 1, 2018 was pleased to stay the closure and shifting of the Presses and consequently the relieving order dated December 29, 2017.

22. He also submitted that the writ petition pending before the Madras High Court as well as the OA have been transferred to this Court and the Principal Bench of the Central Administrative Tribunal at New Delhi. The Principal Bench has decided the OA on July 5, 2021.

23. The plea of Dr. Raja is that the impugned order dated July 5, 2021 was passed by the Tribunal ignoring the order of February 1, 2018 of the Madras High Court in W.P.(C) 1311/2018 staying the order dated January 12, 2018 of the Central Administrative Tribunal and consequently the order of the Directorate of Printing dated December 29, 2017 relieving the services of the employees from the Press in question is bad. In other words, the Tribunal should not have disposed of the Original Application pending hearing of the writ petition before the Madras High Court which has now been transferred to this Court. According to him, the Tribunal could not have decided the legality of the administrative decision taken by the Government for merger of printing presses, as only a Constitutional Court can address the issue. Therefore this Court being a Constitutional Court can deal with the question of merger in the present writ petition. That apart, he contended that the impugned Cabinet decision on September 20, 2017 which *inter alia* approved the rationalisation / merger of the Presses is arbitrary, illegal and discriminatory. On a plain reading of the impugned Cabinet decision dated September 20, 2017, there is no reason apparent for the merger of the Presses. The rationale behind the merger is without any explanation and the decision is silent as to why the 17 Presses cannot be modernised. Further it is also unknown as to why the 5 particular units were retained by the respondents.

24. Hence, absence of any reasons either for the merger of 17 Presses or retaining of only 5 Presses without any substance is arbitrary, unreasonable, and is in violation of Article 14 of the Constitution of India.

25. He further submitted that the retention of 3 Presses in Delhi itself without providing any reason and closing down the efficient Government of India Press, Coimbatore which topped in overall production, recovery of printing charges and other factors in respect of the various Presses during the year 2015-2016 as per the office Memorandum issued on May 23, 2017 and closing down the Press immediately thereafter shows malafide.

26. According to him under the guise of rationalisation / merger and modernisation the Government of India Press, Coimbatore will be closed and the employees will be shifted to Nashik. This would affect the workmen and their families and the said decision is totally in negation to the principles of federalism which is a basic structure of the Constitution of India and would cause regional imbalance. He also stated that the loss of employment because of this process, would only be to Class-III and Class-IV employees.

27. That apart, he contended that the reason for closure of the Government of India Press, Coimbatore for obsolete technology is also a misplaced argument as the same can be modernised and for that purpose, the workers could be given training. Simply closing the entire Press under the guise of merging is very arbitrary, and would certainly cause huge regional imbalance. According to him, the decision lacks all fairness and is overlooking the strong recommendations of the Parliamentary Standing Committee which recommended modernisation of all the printing presses. He submitted that the action is in violation of Section 9-A and Section 25-O of the ID Act. Section 9-A contemplates a notice of change of duties on the

employer to be issued to the workmen. If no such notice is given, then closure of such undertaking becomes illegal.

28. That apart, it is his submission that in the earlier order dated October 1, 2002 issued by the respondents relating to modernisation / restructuring of the Government of India Presses under the Directorate of Printing, the respective managers should inform the employees about the merger of the Press and call for their option for transfer to respective Press or opt for VRS. They should also be intimated about the pay protection, grant of seniority as per rules on merger and the employees who do not opt for transfer should be declared surplus and dealt with as per the provisions of VRS / ID Act. In this regard, he has relied upon ***Caparo Engineering India Ltd. v. Ummed Singh Lodhi and Anr. (2021) 8 SCR 780.*** That apart, it is his submission that Section 25-O of the ID Act which mandates the procedure for closing down an undertaking has not been followed in the guise of merger. Hence, the merger / re-deployment is bad. Any violation thereof shall constitute an unfair trade practice as defined under Section 2(ra) of the ID Act. That apart, it is his submission that Group-C post of the petitioners is not transferrable. Hence, the transfer to Nashik is a colourable exercise of power and unconstitutional. That apart, it is his submission that transfer / re-deployment shall cause hardship to the petitioners as it will amount to uprooting their entire family from Coimbatore to Nashik which is more than 1300 KMs. away. It affects the education of their children and the health of aged parents. He also made a reference to a special case in the case of petitioner No.4 whose son who is 20 years of age is

suffering from muscular dystrophy disease, which is not curable as there is no treatment available. He cannot even move his hands or legs and cannot do anything on his own and requires the complete attention of the petitioner and his family members and in terms of the DoP&T dated May 10, 1990, he should be shown a special consideration. In the last, he submitted that respondent offered local re-deployment within Tamil Nadu or Special VRS but failure to do so attracts promissory estoppel and estoppel by conduct. He seeks the prayers as made in the writ petition.

29. The submission of Mr. Jayant Muth Raj, learned Senior Counsel appearing for the petitioners in W.P.(C) 1537/2021 was on similar lines as have been argued by the other counsel appearing in the other petitioners. According to him, the decision of the respondents with regard to merger / rationalisation / redeployment of press / petitioners is highly arbitrary as there is no valid reason for taking such a decision and all the earlier decisions taken at the highest level have been ignored. In that sense, the present decision cannot be sustained in the eyes of law and is liable to be set aside. He also reiterates the plea as taken by the other counsel that the respondent Nos. 1 and 2 in the writ petition have totally ignored the unanimous recommendations of the Standing Committee on Urban Development to retain all Government of India Presses with further recommendations for upgrading their technology. According to him, the respondents, without issuing any notification or passing any order for merger / deployment started shifting the presses by issuing directions not to take press work orders and to expedite the printing work pending on or

before December 31, 2017 and calling for various particulars of workers / machinery / equipments from all the presses. This unilateral decision was taken ordering the relieving of employees, without the same having been communicated to the workers / petitioners, which action on the part of the respondents is completely *mala fide*. He also submitted that the Committee had deplored the attitude of the Nodal Ministry towards 17 Government of India Printing Presses and felt that by denying requisite funds and manpower to these units over the years, theses Presses have been intentionally pushed to become weaker so that they could be closed down. The Committee had expressed the view that the alienation of the lands belonging to the Presses is not ideal and the Nodal Ministry must modernise the Presses by obtaining necessarily budgetary grants. He also stated that by the impugned action, closing of 12 Printing Presses would lead to escalation of printing expenditure and moreover most of the printing jobs of the Government of India are absolutely sacrosanct and confidential in nature which cannot be expected from private resources. He submitted that the respondent No. 3 is the oldest Press in India and maintains utmost secrecy, which is always required for the Government of India. He submitted that despite the strength being drastically reduced the Press was time and again catering to the needs of the printing material to be printed in Shimla. The employees have been working in the Press in Shimla since their appointment. There was no transfer of the employees of the respondent No. 3 since their appointment. Some of the employees / petitioners have been working for the last 30-35 years, whereas many others are working now for the last 20-25 years in the

respondent No. 3 Press. At the fag end of their service career, the respondents are trying to put them under pressure and agony. In these circumstances, principle of promissory estoppel will be attracted and the employees were under reasonable expectation which has been violated by the respondents. The decision to close 12 Presses and only to retain 5 Presses, that too with 3 of them in Delhi, for modernisation is seriously is improper and illegal. In fact, it is the stand of the respondent No. 3, as per the decision taken in the year 2006 by the Government of India that it was equipped with modernised machinery for which huge monies were spent, the petitioners were also provided specific training to deal with modern equipments. Even training centres were established, where trainings are regularly and frequently provided for the employees of the Government of India. However, amazingly on account of deployment, the petitioners are being sent to Presses which do not have any modernised machinery as is available at Shimla. The shifting of the machinery would not only entail considerable costs, but the entire machinery would be damaged in the process, which lead to huge losses again. He stated that the impugned action of the respondents is liable to be set aside and the petitioners should be allowed to continue at the same place of work.

30. Mr. Chetan Sharma, learned ASG appearing for the respondents has referred to Section 9-A(a) which reads as under:

> *"no employer, who proposed to effect any change in the conditions of service, applicable to any workman in respect of any matter specified in the Fourth Schedule, shall effect such change, - (a) without giving to the workmen likely to be affected by such change a notice in*

the prescribed manner of the nature of change proposed to be effected."

It is his case that in the instant case no notice was served and as such the said provision has no applicability.

31. He has also referred to proviso (b) to Section 9-A of the ID Act which reads as under:

> *"provided that no notice shall be required for effecting any such change - .... (b) where the workman likely to be affected by the change, are persons to whom the Fundamental and Supplementary Rules, Civil Services (Classification, Control and Appeal) Rules, Civil Services (Temporary Service) Rules, Revised Leave Rules, Civil Service Regulations, Civilians in Defense Services (Classification Control and Appeal) Rules or the Indian Railway Establishment Code or any other rules or regulations that may be notified in this behalf by the appropriate government in the Official Gazette, apply"*

He stated that in the present case, the employees of the Government of India Presses are covered by the Fundamental Rules and Supplementary Rules, ('FRSR', for short), Central Civil Services (Classification, Control and Appeal) Rules ('CCS (CCA) Rules' for short), Civil Services (Temporary Service) Rules and Revised Leave Rules, and therefore Section 9-A (a) is not applicable.

32. That apart Section 25-O of the ID Act is under Chapter-VA of the ID Act related to "LAY OFF AND RETRENCHMENT", and since the Government has decided that there would be no retrenchment, this Clause is also now not applicable.

33. Controverting the submissions of the learned Counsel for the petitioners, Mr. Sharma stated that all the employees appointed in

Government of India Presses have an all India transfer liability. In the initial appointment orders of the petitioners of the Government of India Press, Coimbatore, it has been clearly mentioned that *"The appointment carries with it the liability to service in any Govt. of India Presses and Branches under Printing Department situated in any part of India".* Further while confirming their services after probation they were informed that "*he is liable to be transferred, if necessary, to any other press or branch where his services may be needed*." Therefore, all employees are bound by the terms and conditions of the appointment which were accepted by them by joining their posts. This is also clear from the transfer policy issued by the Directorate of Printing with regard to Group-A, B and C employees.

34. In so far as the demands of the petitioners for VRS with golden handshake, Mr. Sharma would refer to Rule 42 of the Central Civil Services (Pension) Rules, 2021 and state that all the employees who are petitioners in W.P.(C) 1534/2021, W.P.(C) 1535/2021 and W.P.(C) 1537/2021 can avail VRS, as they have completed more than 20 years in service. However, all these employees have been drawing all benefits which the working employees of other Presses have enjoyed, and also caused loss to the Government exchequer since 2018. He also stated the Special VRS is applicable to surplus employees only, and the employees herein have never been declared surplus.

35. In so far as the allegation of malafide on part of the Government in continuing three Presses in Delhi, one in Kolkata and another in Nashik and not maintaining federalism in not allowing Presses to continue in southern States of India, he submitted that the

Press at Rashtrapati Bhawan, New Delhi is exclusively for doing the printing work of the President's Secretariat, having only a skeleton staff. The Press at Minto Road, New Delhi is doing the work of the Lok Sabha and the Rajya Sabha Secretariats and Parliament in addition to other works including election related work and gazette notifications. The Press at Ring Road, Maya Puri, New Delhi has been doing printing of secret / confidential documents in addition to other works related to elections and gazette notifications. All these three Presses in Delhi are essential for conducting the business of the Government of India and cannot be closed. Further the Press at Nashik caters to the needs of the southern and western regions and the one at Kolkata cater to the needs of the eastern and north-eastern region. Therefore, there is no *malafide* on the part of the Government as has been alleged.

36. Having heard the learned counsel for parties, the short issue which arises for consideration in these petitions is whether the respondents could have merged 17 Government of India Presses into five Presses situated in Delhi, Nashik and Kolkata, and redeployed the members of the petitioner associations into the said five Government of India Presses. The pleas of the learned counsel for the petitioners have already been noted above. They contested the decision on the ground that the Standing Committee of the Parliament has recommended modernising all 17 Government of India Presses and as such, the decision of the Government of India to merge the 17 Presses into five Presses is not tenable.

37. That apart, it is their submission that the merger shall result in

redeployment of the employees and their subsequent posting at far off places with linguistic and cultural differences, which shall disturb their family life including their children's education and health of their family members. That apart, it was also stated that this merger / redeployment is contrary to the provisions of the Section 9A and 25O of the ID Act.

38. It must be stated at this juncture that the decision of the Union Cabinet to merge 17 Government of India Presses into five Government of India Presses, cannot be contested. It is a policy decision taken by the government after consideration of relevant factors, including modernisation of the Presses as per the new technology available, and reduction in expenditure.

39. It has been stated by the respondents that the machinery available in the Presses is obsolete and cannot be put to appropriate use. With developments such as increasing use of information technology and soft copies, the printing work in all the Presses has declined. Modern colour printing and spiral binding work is also not possible due to lack of required technology and machinery in the Presses. Due to these constraints, the Presses are not at par with advanced printing technologies available in the private sector and also use time taking obsolete printing techniques. Hence, Ministries/Departments now prefer getting their printing work done through private printers. Further, the cost of printing in these Presses is very high as compared to the printing by private printers. It is to tackle these issues of obsolescence of plant and machinery, introduction of modern technology and equipment, rationalisation of manpower to

increase efficiency of production, optimum use of resources including land and manpower in order to efficiently perform the sovereign function of printing for the Government of India, that the Union Cabinet thought it necessary to merge the Presses.

40. It is a settled law, in terms of multiple judgments of the Supreme Court that a policy decision based on change of technology and financial implications cannot be interfered with by a Court of law, unless it is shown that any illegality has been committed in the implementation of the policy, or that the policy is illegal, malafide or otherwise contrary to law. Reference in this regard may be made to the judgments of the Supreme Court in the cases of ***Narmada Bachao Andolan v. Union of India, (2000) 10 SCC 664,*** reiterated in ***Federation of Railway Officers Assn. v. Union of India, (2003) 4 SCC 289*** and ***Centre for Public Interest Litigation v. Union of India (UOI) & Ors., (2016) 6 SCC 408***.

41. That apart, it is a conceded case that five Government of India Presses have become operational. It is only the employees who were working in the Press at Mysore, Coimbatore and Shimla who have challenged the decision of the merger. If that be so, the decision having been implemented / come into effect, it is now too late in the day for this Court to interfere with the impugned decision.

42. Mr. Mahale had relied upon the judgment of the Supreme Court in the case of ***BALCO Employees Union (supra).*** The said judgment has no applicability in the facts of this case, inasmuch as therein, the Supreme Court was concerned with the issue of disinvestment/privatisation of the Company by the Government of

India. It is not such a case here. There is no disinvestment or privatisation but a merger of 17 Government of India Presses into five Government of India Presses. In that sense, there is no effect on the employment/ employer or any of the service conditions as applicable to the employees including the members of the petitioner Associations. Suffice to state, even in ***BALCO Employees Union (supra)*** the Supreme Court has stated that interference by courts in policy decisions on economic matters has to be minimal. The observations of the Supreme Court in paragraphs 92, 93 and 98 reproduced as under, are clearly applicable to the facts of this case:

> *"92. In a democracy, it is the prerogative of each elected Government to follow its own policy. Often a change in Government may result in the shift in focus or change in economic policies. Any such change may result in adversely affecting some vested interests. Unless any illegality is committed in the execution of the policy or the same is contrary to law or mala fide, a decision bringing about change cannot per se be interfered with by the court.*
>
> *93. Wisdom and advisability of economic policies are ordinarily not amenable to judicial review unless it can be demonstrated that the policy is contrary to any statutory provision or the Constitution. In other words, it is not for the courts to consider relative merits of different economic policies and consider whether a wiser or better one can be evolved. For testing the correctness of a policy, the appropriate forum is Parliament and not the courts. Here the policy was tested and the motion defeated in the Lok Sabha on 1-3-2001.*
>
> *xxx xxx xxx*
>
> *98. In the case of a policy decision on economic matters, the courts should be very circumspect in conducting any enquiry or investigation and must be most reluctant to*

impugn the judgment of the experts who may have arrived at a conclusion unless the court is satisfied that there is illegality in the decision itself."

43. The learned counsel for the petitioner Associations also contended that the impugned decision is in violation of Section 9A and 25O of the ID Act. At first we intend to deal with the issue raised with regard to Section 9A which reads as under:

> *"**NOTICE OF CHANGE***
> *9A. Notice of change.- No employer, who purposes to effect any change in the conditions of service applicable to any workman in respect of any matter specified in the Fourth Schedule, shall effect such change,-*
> *(a) without giving to the workman likely to be affected by such change a notice in the prescribed manner of the nature of the change proposed to be effected; or*
> *(b) within twenty-one days of giving such notice: Provided that no notice shall be required for effecting any such change—*
> *(a) where the change is effected in pursuance of any 2[settlement or award]; or*
> *(b) where the workmen likely to be affected by the change are persons to whom the Fundamental and Supplementary Rules, Civil Services (Classification, Control and Appeal) Rules, Civil Services (Temporary Service) Rules, Revised Leave Rules, Civil Service Regulations, Civilians in Defence Services (Classification, Control and Appeal) Rules or the Indian Railway Establishment Code or any other rules or regulations that may be notified in this behalf by the appropriate Government in the Official Gazette, apply."*

44. The submission is primarily that the respondents were required to give a notice to the members of the petitioner associations before

effecting the change in the service conditions. We are unable to accept such a plea of the learned counsel for the petitioners in view of the proviso to the said provision. From a perusal of the same, it is clear that where the workmen are governed by the rules made by the Central Government like the FRSR / CCS (CCA) / Civil Services / Temporary Services etc. the said provision would have no applicability. There is no dispute nor has it been contested by the learned counsel for the petitioners that the members of the petitioner Association are governed by the provisions of the rules as stipulated in the proviso to Section 9A. If that be so, the rules being applicable, the proviso shall come into play and no notice of change is required to be given to the members of the petitioner Associations. Hence, this plea is liable to be rejected.

45. Dr. Raja had raised a submission with regard to the hardships caused to the members of the petitioner Associations and also to their family, In fact, he has filed an application seeking to bring on record the specific hardships faced by some of the members of the petitioner Associations which we have already allowed. However, it must be stated that such hardships / problems, cannot be a ground to challenge merger / redeployment for the reasons we have already discussed above. In any case, Mr. Sharma has fairly stated that those members of the petitioner Associations, who are retiring till the end of next year, shall be allowed to continue at the present place of posting. This submission of the learned ASG is taken on record. At this juncture we may refer to the case of Mr. N. Rahul, offset machine assistant at the Press in Coimbatore, whose son R. Jainandhan, is suffering from

the incurable Muscular Dystrophy Disease. We have seen from the documents placed on record that his son is 80% disabled and is undergoing treatment at various hospitals in Coimbatore. It is directed that the respondents may look into the matter as a special case on humanitarian grounds, and redeploy Mr. Rahul within the State of Tamil Nadu so that he can continue with the treatment of his son.

46. The plea urged by Dr. Raja that insofar as the other employees are concerned, whose date of retirement is much after the end of the year 2024 be accommodated with the concerned States on appropriate post is concerned, the same does not appeal to us, more so, for the reason that similarly placed employees like the petitioners have accepted the merger and their redeployment and have been posted in their respective Presses. Any plea of this nature, if accepted, would be unjust for those employees, and would also mean that the Government would need to find an appropriate post within the State in a Government of India organisation where the members of the petitioners could be accommodated. When a considered decision has been taken to merge the Presses and redeploy the employees, any directions in the manner sought for by the petitioner Associations would be untenable, as it would be to the discrimination of all those employees who have already been deployed in the five Government of India Presses. That apart, any such order in that regard would also open a *Pandora's Box* of litigation by such employees seeking similar benefits, which would be to the detriment of the very policy decision taken by the Government of India.

47. During the course of submissions, Dr. Raja has also stated that

the respondents should consider by floating a Special VRS scheme for the members of the petitioner Associations who are not inclined to be redeployed. The submission of Mr. Sharma is that the members of the petitioner Associations are not precluded from seeking VRS if eligible under the provisions of the rules framed by the Central Government, including the CCS (Pension) Rules. The same is appealing.

48. However, the petitioner Associations cannot seek a mandamus that the Government of India should necessarily float a Special VRS scheme against which they can apply. The plea of Mr. Sharma is that the Special VRS is applicable to only surplus employees. The members of the petitioner Associations are not being treated as surplus but are being redeployed elsewhere. In that sense, their employment in terms of the service conditions as applicable is secure. Otherwise, the effect of Special VRS being floated is that, such employees who are declared surplus would be liable to be dispensed with.

49. In so far as the plea of the counsel for the petitioners that the impugned action of the respondents is in violation of Section 25-O of the ID Act is concerned, the case of the respondents in that regard is that since the provision of 25-O is under Chapter-VA which relates to lay-off and retrenchment, the said clause is not applicable. It must be stated here that there is a fallacy in the argument of Mr. Sharma inasmuch as Section 25-O is not under Chapter VA, but under Chapter-VB of the ID Act which contemplates '*SPECIAL PROVISIONS RELATING TO LAY-OFF, RETRENCHMENT AND CLOSURE IN CERTAIN ESTABLISHMENTS.'* Nevertheless, the provision of Section 25-O has to be read keeping in view the purport

of the Chapter under which the same has been included by the legislature. So the mandate of Section 25-O would become applicable only in the eventuality there is closure of the establishment, leading to retrenchment / lay off of its employees. It is not such a case here as there is neither any retrenchment nor any lay-off. The employment of the members of the petitioner Associations has not been terminated, but is secure with the same service conditions. In support of our conclusion, we may refer to the Judgment of the Madhya Pradesh High Court in the case of ***Fertilizer Corporation of India v. Hindustan Fertilizers, 1993 (O) MPLJ 244*** wherein it has been held as under:

> *"6. Definition of closure under Section 2(cc) of the Act is given below:*
>
> > *"2(cc) "closure" means the permanent closing down of a place of employment or part thereof."*
>
> *Relying on this wide definition the learned counsel for the petitioner argued that the closing down of marketing activities in M. P. by the Corporation amounts to closure under Section 2(cc) of the Act for which the Corporation was required to apply for permission to the appropriate Government under Section 25O of the Act. Since, admittedly, no such permission was obtained and the procedure prescribed under Section 25O above was not followed, the closure is illegal which renders the consequential impugned transfers of these employees void. In reply the learned counsel for the Corporation stressed that form Order under Rule 76-B of the Rules framed under the Act requires information of the number of workmen whose services will be terminated on account of the closure of the undertaking along with the details of their categories, addresses and wages drawn by them, to be furnished to the Government while seeking permission for closure. From this it is evident that closure essentially entails termination of the services of concerned employees. The Corporation in the best interest of its*

employees decided not to terminate their services. Instead they have been accommodated in the other units of the Corporation under the express service condition applicable to them. As such the mass transfer of employees is not the result of closure as defined under Section 2(cc) of the Act but merely shifting of the marketing activity to other units of the Corporation. In order to judge which of the two rival contentions closure versus shifting is correct, we have to turn to the allegations of mala fide. If no mala fide is proved, Corporation's case of bona fide transfers as a result of shifting of the unit has to be accepted.

xxx *xxx* *xxx*

8. Simply because the word closure has been used in Annexures A and B, it cannot be assumed that Corporation's action in this behalf, amounted to closure as defined under Section 2(cc) of the said Act It has been argued on behalf of the Corporation that closure as held in General Labour Union (red flag), Bombay v. B. V. Chavan, AIR 1985 SC 297 (para 10), implies closing of industrial activity as a consequence of which workmen are rendered jobless. Shri Naolekar drew our attention to the form in which the employer is required under Section 25O of the said Act to apply for permission to the appropriate Government, which requires information of the number of employees being thrown out of job to be included in the pro forma. On this basis he argued that since the Corporation load decided to accommodate the employees of its marketing unit in M.P. in its offices outside M.P. and such a course was open to the Corporation in view of the clear condition in their appointment orders, their transfer is the result of shifting of the M.P. unit to other places to avoid the harsh consequences of retrenchment and does not amount to closure under Section 2(cc) of the said Act. The bona fides of the Corporation are made further clear from the fact that it offered to accommodate the remaining 22 employees in the adjoining State of UP. Unfortunately this offer was not accepted by the petitioner. We are therefore, satisfied that in the facts and

circumstances of the case the mass transfer of its employees vide Annexure-K is not the result of the closure of M.P. unit and therefore the Corporation was under no obligation to have followed the procedure prescribed under Section 25O of the said Act before issuing the impugned order."

(emphasis supplied)

50. In fact, the judgment squarely covers the issue which arises for consideration on all fours, and so this plea is also liable to be rejected.

51. During his submissions with respect to Section 9A of the ID Act, Dr. Raja has relied upon the judgment of the Supreme Court in the case of ***Caparo Engineering India Ltd. (supra)***. We have seen the facts which arose for consideration before the Supreme Court. The Supreme Court was concerned with the finding of the Labour Court which held that the employer could not prove that there was continuous reduction in production of Dewas Factory and the staff had proportionately become surplus. The Labour Court found that the workmen, nine in numbers, were transferred from Dewas with the intention to reduce the number of persons employed at Dewas and such an act was covered by Clause 11 of Schedule IV of the ID Act. It held that since no notice of change was given, the transfer orders are in violation of Section 9A of the ID Act. That apart, it was held that the transfer will change the nature of work, as the labourers at Dewas will be working at Chopanki as Supervisors. Consequently, the Labour Court held the order of transfer as null and void and consequently set aside the same. Since the facts in the present case are at variance and in any case we have already found that Section 9A of the ID Act is not applicable to the present case, this judgment has no applicability.

52. Insofar as the reliance placed by Mr. Mahale on the judgment of the Division Bench of this court in the case ***Airports Authority of India and Ors. (supra)*** is concerned, in the said judgment respondent No.1 was appointed as a wireman helper. He earned promotion and thereafter was working as Assistant Electrician at IGI Airport on the date of his voluntary retirement. The Airport Authority of India ('AAI', for short) entered into a private partnership with a private entity DIAL under an Operation Management and Development Agreement ('OMDA', for short).

53. Anticipating a change in some service conditions prejudicial to them, particularly with regard to transfer and re-deployment of the employees of AAI, the employees' union filed a writ petition this Court being W.P.(C) 808/2008. A specific challenge was made to clause 6.1.4 and 6.1.7 of the OMDA amongst other grievances. The contention of the employees' union was that till 2004, the transfer policy stipulated that Group 'C' and group 'D' employees of the AAI could not be transferred ordinarily and therefore Regulation 7 of the Regulations of 2003, which stipulated that the employees had an all India transfer liability was adversely affecting the terms and conditions of the service of the employees and therefore such transfer should not be made. While the said writ petition was pending, AAI issued a circular dated March 9, 2009 which was a comprehensive scheme with respect to re-deployment / transfer and voluntary retirement scheme. The said scheme in paragraph 2 provided that the employees could choose three Airports / Establishments of their choice in order of priority for their posting / transfer outside Delhi. The necessity of re-

deployment / transfer arose due to the IGI and SCI Airports being handed over to joint venture companies and the voluntary support period of three years having come to a close on May 2, 2009. However, for those who did not want to re-deployment or transfer to other airports, an alternative exit route was given in paragraph 3 of the Scheme to seek voluntary retirement. The last date of seek voluntary retirement was April 30, 2009. The respondent No.1 did not opt for re-deployment / transfer to any of the airports as envisaged under the scheme and consequently did not chose any of the three Airports / Establishments of his choice, instead, he chose an alternative path of applying for VRS by a application dated April 20, 2009.

54. It was his case, he has withdrawn his VRS on April 29, 2009 as he wanted to continue in service and it was subsequent to this that his VRS was accepted and approved by the AAI. The AAI contended otherwise. By an order dated April 30, 2009, learned Single Judge directed the AAI to extend the period to July 31, 2009 to enable the employees make a meaningful choice. On May 6, 2009, respondent No.1 wrote to AAI reiterating his claim for withdrawal of his VRS. The AAI sent a cheque dated August 11, 2009 to the respondent No.1 towards the *ex-gratia* amount which the respondent No.1 claims to have encashed. The prayer of the respondent No.1 before the Single Judge was a direction to the AAI to accept the withdrawal of his VRS of 2009 and reinstate him with back wages and interest thereof. The Division Bench was of the view that it cannot subscribe itself to holding that the withdrawal of the VRS application was valid and that the respondent No.1 should be re-instated back into the service. In

other words, the appeal filed by the AAI was accepted by the Division Bench. Suffice to state, the reliance placed by Mr. Mahale is only to state that in the background where the employees are sought to be re-deployed, a VRS Scheme has been floated and that should be floated in this case as well. We are unable to agree to the said proposition for the reason that decision to float a Special VRS Scheme is purely a policy decision and prerogative of the employer, and the employees cannot seek a mandamus that such a scheme needs to be floated. In any case, it is the case of the respondents herein that the employees of the petitioner association are within their rights to seek VRS under the Rules. Therefore, the judgment has no applicability in the facts of this case.

55. Accordingly, we hold that the present petitions are devoid of merit. They are dismissed, except to the extent as stated in paragraph 45 above. Pending applications are dismissed as infructuous. Interim order(s), if any, in the petitions, stands vacated. Parties to bear their own costs.

V. KAMESWAR RAO, J

ANOOP KUMAR MENDIRATTA, J.

JULY 31, 2023/*ds/jg/aky*