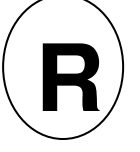




IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 17TH DAY OF NOVEMBER, 2025
BEFORE
THE HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE
WRIT PETITION NO. 46298 OF 2014 (L-RES)



BETWEEN:

1. D.K. DISTRICT PLYWOOD WORKERS' UNION,
REPRESENTED BY ITS SECRETARY,
NEAR BUS STAND, KUNDAPURA TOWN,
UDUPI DISTRICT-576 226.
2. THE MILL AND GENERAL MAZDOOR SANGHA,
IRODI VILLAGE, HANGARAKATTA-576 226,
REPRESENTED BY ITS SECRETARY.

... PETITIONERS

(BY SRI. M. NARAYANA BHAT, ADVOCATE)

AND:

THE MANAGEMENT OF INDIAN PLYWOOD
MANUFACTURING COMPANY LTD.,
REPRESENTED BY ITS MANAGER,
HANGARAKATTA, UDUPI DISTRICT-576 226.

... RESPONDENT

(BY SRI. VENKATESH R. BHAGAT, ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 OF THE CONSTITUTION OF INDIA PRAYING TO CALL FOR THE ENTIRE RECORDS PERTAINING TO REF. NO.92/2005 FROM THE FILE OF THE INDUSTRIAL TRIBUNAL AT MYSORE; ISSUE A WRIT OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT, ORDER OR DIRECTIONS QUASHING THE AWARD DATED 29.07.2013 MADE IN REF. NO.92/2005 MARKED AT ANNEXURE-J PASSED BY INDUSTRIAL TRIBUNAL AT MYSORE AS THE SAME IS ILLEGAL AND IS VIOLATIVE OF THE PROVISIONS OF THE I.D. ACT AN ARTICLE 21 OF THE CONSTITUTION OF INDIA.





THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 24th SEPTEMBER, 2025 AND COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR JUSTICE ANANT RAMANATH HEGDE

CAV ORDER

This petition is filed by the two registered Unions of the respondent-Company (for short, 'Company'), which was closed in terms of the closure order dated 04.05.2002.

2. The petitioners assail the award dated 29.07.2013, passed by the Industrial Tribunal, Mysuru ('Tribunal') in Ref. No.92/2005. In terms of the impugned award, the petitioners' reference is rejected.

3. Certain facts are admitted: The Union raised the dispute relating to the "***special casual leave***" declared by the Company, on the premise that it amounts to Lay-Off, as the "***special casual leave***" denied employment and



wages without terminating the relationship between employer and employee.

4. The Company claimed that it was unable to employ the workers due to a shortage of raw materials, and declared "*special casual leave*". Though employment was denied, workers were permitted to seek employment elsewhere during the said period; as such, workers are not entitled to wages, according to the Company's contention.

5. When the matter was still before the Conciliation Officer, the Company was closed on 04.05.2002.

6. The Conciliation failed, and thereafter, the Conciliation Officer referred the matter to the appropriate Government. The appropriate Government refused to refer the dispute on the premise that the Company had been closed with effect from 04.05.2002.



7. The petitioners questioned the said decision of the appropriate Government in Writ Petitions No.19235-236/2003. The Writ Petitions were allowed, and the appropriate Government was directed to refer the dispute for adjudication to the Tribunal.

8. Consequently, the appropriate Government referred the dispute for adjudication.

9. The points for reference framed by the Government are as under:

- (i) *Whether the Management of M/s Indian Plywood Manufacturing Company Limited, South Kannada District, is justified in declaring special casual leave with effect from 03.01.2000 and offering 50% wages amounts to illegal Lay-Off?*
- (ii) *If so, to what relief are the workmen entitled to?*

10. Before the Tribunal, the petitioners claimed full wages for the period between 03.01.2000 to 04.05.2002 on the premise that the "special casual leave" is illegal and



it amounts to illegal "*Lay-off*" and the mandatory provisions under Chapter V-B of the Industrial Disputes Act, 1947 (for short, 'Act, 1947') governing Lay-off are not followed.

11. The Company contested the petition on the premise that Chapter V-B of the 'Act, 1947' is not applicable to the Company.

12. The Company also took the contention that the period between 03.01.2000 to 04.05.2002 is treated as "special casual leave", which permitted the workmen to stay away from the Company and allowed them to work elsewhere. The Company also contended that, with effect from 04.05.2002, the Company has been closed and the workmen were paid compensation and had given a complete discharge and the workmen accepted the compensation without any protest; as such, there is no liability on the Company.



13. The Tribunal, in terms of the impugned award, has rejected the claim.

14. It is relevant to notice that the Tribunal, in addition to the points for reference framed by the appropriate Government, also framed five points for consideration to adjudicate the reference. Said five points are as under:

- (i) Whether Chapter V-B of the Act is applicable to the Establishment of the second party?*
- (ii) Whether the declaration of 'Special Leave' by the second party from 03.01.2000 is an illegal Lay-off?*
- (iii) Whether the closure compensation given by the second party also covers Lay-off compensation?*
- (iv) Whether the workmen are entitled to Lay-off compensation?*
- (v) What order?*



15. While answering Point No.1, the Tribunal has held that Chapter V-B of the Act, 1947, applies to the Company. Point No.2 is answered, holding that the "Special Casual Leave" declared by the Company on 03.01.2000 amounts to an illegal Lay-off.

16. Insofar as the discharge of liability claimed by the Company, the Tribunal held that compensation paid to the workmen does not cover the monetary benefits payable in respect of Lay-off.

17. The Tribunal held that the petitioners are not entitled to claim the backwages for the period between 03.01.2000 to 04.05.2002.

18. The Tribunal declined the relief on the premise that the workmen had not pleaded that they were not gainfully employed during the aforementioned period, covering from 03.01.2000 to 04.05.2002. The Tribunal held that the workmen can claim backwages only on a



pleading and proof that they were not employed during the period in which the Company had declared a Lay-off.

19. Learned counsel for the petitioners raised the following contentions:-

- (i) The Company has not followed the mandatory provisions of Chapter V-B of the Act, 1947, and that the "special casual leave" declared by the Company is declared as illegal Lay-off and has attained finality.
- (ii) Compensation paid by the Company is for the closure of the Company and not the compensation for the Lay-off period.
- (iii) The Tribunal, having held that the act of the Company amounts to illegal Lay-off, could not have denied backwages on the ground that workmen have not pleaded that they were not employed elsewhere during the period of Lay-off. The relationship of employer and employee



did subsist during the period of Lay-off, and pleading that the workmen were not gainfully employed elsewhere is not required to claim backwages.

- (iv) The Company should have pleaded that the workmen have worked elsewhere during the Lay-off, and having not done so, the Company cannot contend that the workmen are not entitled to the wages during the Lay-off.
- (v) Since Chapter V-B of the Act, 1947 applies to the Company, the "special casual leave" declared by the Company, which in fact is a Lay-off, is illegal as no prior permission of the Government was obtained before declaring "special casual leave". In such a scenario, under Section 25M of the Act, 1947, the Company is liable to pay all the benefits as if there was no Lay-off.

20. Learned counsel appearing for the Company would urge the following points:-



- (i) That the Company was closed with effect from 04.05.2002. On the very same day, the workmen have been paid the compensation as agreed between the workmen and the Company, and each workman has issued receipts in writing giving full discharge against the Company, making a clear statement that the compensation is received towards full and final satisfaction of the claim of the workman.
- (ii) The Tribunal under Section 10 of the Act, 1947, has the discretion to deny backwages in appropriate cases.
- (iii) The Company declared "special casual leave" and the Company did not insist that the petitioners report to the Company during Lay-off, which meant that workmen were not prevented from working elsewhere and since it is not pleaded by workmen that they were not working elsewhere,



the Tribunal is justified in declining full backwages.

21. Learned counsel for the respondent relying on the judgment of the Apex Court in ***The Workmen of M/s Firestone Tyre & Rubber Co. of India (P) Ltd vs. The Firestone Tyre and Rubber Co.***¹ and the Co-ordinate Bench of this Court in ***Siruguppa Sugars and Chemicals Ltd. vs. Commissioner of Labour, Government of Karnataka, and Others***² and the judgment of the Gauhati High Court in ***Management of Gauhati Press (P) Ltd. vs. Presiding Officer, Labour Court, Gauhati and others.***³

22. By way of reply, the learned counsel for the petitioners would urge that there is no settlement in respect of Lay-off compensation, and the settlement was in respect of closure compensation. Reliance is placed on the judgment of the Apex Court in ***Workmen of Delhi***

¹ (1976) 3 SCC 819

² (2002) 101 FJR 430

³ 1983 LAB. I.C. 824



Cloth and General Mills Ltd. Vs. Management of Delhi Cloth and General Mills Ltd.⁴ to urge the contention that the settlement should be as prescribed under the Karnataka Industrial Disputes Rules, 1957, and the same has not been done.

23. The Court has considered the contentions raised at the Bar and perused the records.

24. As could be noticed from the impugned award, the Tribunal has held that Chapter V-B of the Act, 1947, applies to the Company. The Company raised a contention that Chapter V-B does not apply on the basis that at the relevant point in time, less than 100 workmen were employed in the Company. Said contention is not established by the Company by producing the muster roll, as rightly held by the Tribunal.

25. In addition, the Tribunal has also noticed that the petitioners have produced records to show that at the

⁴ (1969) 3 SCC 302



relevant point in time, more than 100 workmen were employed in the Company. This being the fact, there is no difficulty in accepting the contention that Chapter V-B of the Act, 1947, does apply to the Company.

26. The respondent-Company has not produced the Standing Orders to show that it enables the Company to declare "special casual leave". The "special casual leave" has all the trappings of a Lay-off. It does not sever the employer and employee relationship. However, employment is denied without retrenchment. No records are produced to show that the Company, before deciding to grant "special casual leave", had obtained the necessary permission of the appropriate Government as required under Section 25M of the Act, 1947.

27. Admittedly, no such application is filed seeking permission for a Lay-off. Though the Company tried to justify its action on the premise that it is not a Lay-off and what is declared is a "special casual leave" granted to the



workmen on account of difficult financial conditions, the Court is of the view that the action of the respondent-Management amounts to Lay-off as defined under Section 2(kkk) of the Act, 1947.

28. This being the position, the Tribunal has rightly held that the decision of the Company granting "special casual leave" to the workmen with effect from 03.01.2000 and extending up to 04.05.2002 is nothing but a Lay-off within the meaning of Section 2(kkk) of the Act, 1947. Since the said decision is in contravention of Section 25M of the Act, 1947, the Lay-off is illegal.

29. Now the question is whether the workmen have given up their claim relating to backwages by accepting the compensation on 04.05.2002.

30. There is no dispute that on 04.05.2002, compensation was paid to the workmen. The Company has produced the receipts signed by individual workmen for having received the compensation. It is relevant to notice



that on 04.05.2002, the Company was closed. Once the Company is closed, the Company is under an obligation to pay the closure compensation, and the compensation was paid on 04.05.2002.

31. It is not the case of the Company that they have paid the Lay-off compensation to the workmen. Company has contended that special casual leave is not a Lay-off. The Company also contended that Lay-off compensation is waived by the workmen and in terms of the settlement arrived at between the parties, the workmen have agreed to receive the compensation paid on 04.05.2002 towards full and final settlement of their claim.

32. The relevant portion of the receipt would read as under:

"I..... hereby gracefully accept a total amount ofby Cheque No.....dateddrawn onBank as detailed below as a result of the closure of I.P.M. Co. Pvt. Ltd., Hungarcutta with effect from 4th



May, 2002 in full and final settlement of all my dues and I have no other claims or disputes of whatever nature against the Management.”

33. In the said receipt, the breakup of the amount paid is also provided under the following heads:

- (a) One month's wage for the period of notice of one month.*
- (b) Closure compensation at 15 days' wages for the year of continuous service.*
- (c) Gratuity as per the Payment of Gratuity Act.*
- (d) Arrears of bonus for the financial years.....*
- (e) Arrears of wages.*
- (f) Leave salary at my credit.*

34. On going through the receipts executed by each workman, it is noticed that the receipts do not, in clear terms, indicate that the compensation paid includes closure compensation as well as Lay-off compensation. However, on going through the breakup of the payment made, there is no difficulty in holding that what is paid is closure compensation. It is more so in a situation where the Company has not claimed that it has paid Lay-off



compensation, as it has been contending that it has not laid off the workers and is under no obligation to pay Lay-off compensation.

35. Learned counsel for the Company would submit that the statements in the receipt issued by the workmen, mentioning that the workmen has received the amount towards full and final settlement of all the dues, demonstrates that each workman has given up the claim relating to the monetary benefit payable under the provision relating to Lay-off.

36. From the aforementioned receipt, it is evident that the Lay-off compensation is not paid. The statement referred to above in the receipt issued by the workman has to be understood as the discharge given by the workman in respect of the amount due under the aforementioned heads.

37. It is relevant to notice that the dispute relating to Lay-off compensation was pending before the



Conciliation Officer when the compensation was paid on 04.05.2002. Had there been a settlement in respect of Lay-off compensation, the same would have been reported to the Conciliation Officer and would have been reflected in the breakup. The ratio laid down in ***Workmen of Delhi Cloth and General Mills Ltd. supra*** supports the contention that the settlement, if any, when the conciliation proceeding was pending, should be submitted before the Conciliation Officer.

38. This being the position, it is evident that parties to the proceeding have not specifically reported to the Conciliation Officer relating to the settlement of the dispute relating to Lay-Off compensation.

39. The Tribunal has declined to grant the wages for the Lay-off period on the premise that the workmen have not pleaded that they were not gainfully employed elsewhere. The Tribunal has taken the view that it is for



the workmen to plead and establish that they have not worked elsewhere during the Lay-off period.

40. The question is whether the Tribunal could have denied the backwages during the period of "illegal Lay-off" on the ground that workmen did not plead unemployment during the said period?

41. The Court does not agree with the Tribunal's view. The Industrial Tribunal has referred to the judgment of the Apex Court in **Firestone Tyre (supra)** but has not passed the award based on the said judgment. However, the learned counsel for the respondent-Company has tried to justify the award denying back wages placing reliance on the judgment in **Firestone Tyre (supra)**.

42. In **Firestone Tyre (supra)**, the Apex Court has held that in a proceeding under Section 10(1) of the Act, 1947, the Tribunal has the discretion to award less than the wages. The Apex Court has also held that under Section 33(C)(2) of the Act, 1947, compensation or wages



cannot be awarded if the Lay-off is held to be legal and in terms of the contract of service.

43. It is relevant to notice that when the said judgment was delivered in 1976, it was in connection with the dispute which had arisen on a cause of action of 3rd March 1967. Thus, when the cause of action arose, Section 25M of the Act, 1947 was not yet introduced in the Act, 1947. Chapter V-B, containing Section 25M, was introduced by Act No. 32 of 1976, which came into force on 16th February, 1976.

44. Section 25M(1), (8) and (10) of the Act, 1947, introduced in 1976, read as under:

"25M. Prohibition of lay-off .-

(1) No workman (other than a badli workman or a casual workman) whose name is borne on the muster-rolls of an industrial establishment to which this Chapter applies shall be laid-off by his employer except [with the prior permission of the appropriate Government or such authority as may be specified by that Government by notification in



the Official Gazette (hereafter in this section referred to as the specified authority), obtained on an application made in this behalf, unless such lay-off is due to shortage of power or to natural calamity, and in the case of a mine, such lay-off is due also to fire, flood, excess of inflammable gas or explosion.]

(2) XXXX

(8) Where no application for permission under sub-section (1) is made, or where no application for permission under sub-section (3) is made within the period specified therein, or where the permission for any lay-off has been refused, such lay-off shall be deemed to be illegal from the date on which the workmen had been laid-off and the workmen shall be entitled to all the benefits under any law for the time being in force as if they had not been laid-off.

(9) XXX

(10) The provisions of Section 25-C (other than the second proviso thereto) shall apply to cases of lay-off referred to in this Section. Explanation. – For the purposes of this Section, a workman shall not be deemed to be laid-off by an employer if



such employer offers any alternative employment (which in the opinion of the employer does not call for any special skill or previous experience and can be done by the workman) in the same establishment from which he has been laid-off or in any other establishment belonging to the same employer, situate in the same town or village, or situate within such distance from the establishment to which he belongs that the transfer will not involve undue hardship to the workman having regard to the facts and circumstances of his case, provided that the wages which would normally have been paid to the workman are offered for the alternative appointment also.”

45. Section 25M(8) provides that in case the requirements of Section 25M are not followed, then the workmen shall be entitled to all the benefits under any law for the time being in force as if they had not been laid-off.

46. Section 25M(10) provides that provisions of Section 25C (other than the second proviso thereto) shall apply to cases of Lay-off referred to in this Section.



Section 25C can be applied to Lay-off under Chapter V-B, provided that the Lay-off is legal. If a Lay-off is illegal, then Section 25M(8) would apply.

47. Thus, the ratio laid down by the Apex Court in ***Firestone Tyre (supra)*** does not apply to the facts of the case. The reason is that in ***Firestone Tyre (supra)***, the Apex Court was dealing with an industrial dispute raised by the employees of an establishment which was outside the purview of Chapter V-B of the Act, 1947. In those circumstances, and more particularly when Section 25M was not in place, the Apex Court held that the Tribunal can award lesser compensation than full wages in case of illegal Lay-off.

48. However, in the instant case, Chapter V-B of the Act, 1947 is applicable. Chapter V-B provides for prior approval of the Government before Lay-off, and as already noticed, such prior approval is not obtained. Once such prior approval is not obtained, Section 25M(8) gets



triggered. To take the benefit under Section 25M(10), which provides wages as provided under Section 25C, the Company must establish that the Lay-off was in compliance with Section 25M(1), which provides for prior approval and since, Section 25M(1) is not complied with, Section 25M(10) cannot be invoked.

49. As noticed, the Tribunal has held that the burden was on the workmen to establish that they were not gainfully employed during the relevant period and denied the backwages.

50. The Tribunal's view in the facts of the case is incorrect. There is a distinction between Lay-off and Retrenchment. In **Gauhati Press** (supra), the dispute arose from a Lay-off, and the High Court of Assam denied the wages for the said period. However, this Court is of the view that the said judgment does not take notice of Section 25M(8) and (10) as amended and does not notice the fact that the judgment in **Firestone Tyre (supra)**



was rendered in a situation where Chapter V-B of the Act was not yet introduced and Section 25M was not in force.

51. Section 25M(8) mandates full payment as if the workmen were employed and were not laid off in case of non-compliance with Section 25M of the Act, 1947. For non-compliance of Section 25M, the Court has to presume that the workmen were very much in the muster roll of the Company. This is so because of the expression "***shall be entitled to all the benefits under any law for the time being in force as if they had not been laid off***" used in Section 25M(8), makes it abundantly clear that by fiction of law, one has to presume that the workmen were employed in the establishment during the period of Lay-off. This is the statutory protection provided under the Act, 1947.

52. However, despite the presumption being available, there may be instances where the workmen were employed elsewhere if the employer had exempted



the workmen from marking their attendance during the Lay-off period. If so, the burden on the employer is to plead and establish that during the laid-off period, the workmen were gainfully employed elsewhere.

53. The Tribunal has not noticed this aspect of the matter and has erroneously held that the workmen are not entitled to the wages for the laid-off period on the premise that there is no pleading and evidence to hold that they are not gainfully employed elsewhere.

54. It is also relevant to notice that in the petition, the petitioners have alleged that a Lay-off was declared on 03.01.2000 for a short period, and later, the Lay-off was extended from time to time till the Company was closed on 04.05.2002. When that is the case, it is difficult to believe that the workmen were gainfully employed during Lay-off.

55. For the aforementioned reasons, the Court is of the view that denial of backwages for the Lay-off period on



the premise that there is no pleading and evidence for not being gainfully employed elsewhere is erroneous.

56. In case the Court has to hold that the payment made on 04.05.2002 is only in respect of the closure compensation, then what emerges is that 50% of the wages are paid during the Lay-off period, as the closure compensation provides for payment of 15 days' average wages for each completed year of service in excess of six months. So what is not paid is 50% of the wages during the Lay-off period.

57. The respondent was under an obligation to pay the compensation when the Lay-off was illegally declared by styling it as "special casual leave". Thus, the amount payable to the workmen was not paid, which was due to them on 03.01.2000 when "special casual leave" was declared. The amount was lying with the Company, which was due to the workmen.



58. Learned counsel for the respondent has relied on the judgment in ***Siruguppa Sugars and Chemicals (supra)***. The Court has considered the said judgment. Suffice it to say, the facts obtained in the said case are entirely different, and the provisions of law discussed above have not been considered in the aforementioned judgment. Hence, the said judgment is of little assistance to the petitioners.

59. The judgment relied upon by respondent-Company in ***Kendriya Vidyalaya Sangathan v. S.C. Sharma***⁵ is also not applicable to the facts of the case as the said judgment did not deal with the illegal Lay-Off, which is the fact situation in the present case. Learned counsel has also relied on the judgment of the Apex Court in ***U.P. State Brassware Corporation Ltd. and another vs. Uday Narain Pandey***⁶ to contend that backwages are not automatic and the Labour Court or the Tribunal has

⁵ (2005) 2 SCC 363

⁶ (2006) 1 SCC 479



discretion to deny the backwages. Again it is to be noted that in the said case, the Court was dealing with the question relating to termination of employment and not the question relating to Lay-off. Hence, the said judgment also does not assist the respondent-Company.

60. For the reasons recorded, the Court is of the view that the workmen are entitled to the interest at the rate of 7% per annum from 03.01.2000 till the date of payment.

61. Hence, the following:

ORDER

- (i) Writ Petition is **allowed**.
- (ii) Impugned award dated 29.07.2013 passed in Ref. No. 92/2005 on the file of the Industrial Tribunal, Mysore is set aside.
- (iii) The employees of the respondent Company who are the members of the petitioner Unions are entitled to the Lay-off compensation due to the



workmen with interest @ 7% per annum from
03.01.2000 till the date of payment.

- (iv) The amount due shall be paid within 45 days
from the receipt of a certified copy of the order.

Sd/-
(ANANT RAMANATH HEGDE)
JUDGE

CHS/GVP
LIST NO.: 19 SL NO.: 1