

Order of Justice D.M. Dharmadhikari, M. P. High Court, Jabalpur dated  
7.10.1996 dismissing 15 Writ Petition of Employers

IN THE HIGH COURT OF JUDICATURE AT JABALPUR

WRIT PETITION NO. 4207 OF 1996

PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA

PETITIONER: M/s. BEC Impex International Private Limited, Industrial Estate, Bhilai, District Durg, through R.K. Shukla, Group Personnel Manager.

VERUS

RESPONDENTS :

1. State of Madhya Pradesh through the labour Department, Vallabh Bhawan, Bhopal, through its Secretary.
2. Chairman, Industrial Court, Indore.
3. State Industrial Court, Jabalpur Bench, Jabalpur.
4. General Secretary, Pragatisheel Engineering Shramik Sangh, MIG/1/55, HUDCO Colony, Bhilai, District Durg.

1. Particulars of the Petitioner :  
As per cause title above.
2. Particulars of the Respondents :  
As per cause title above.
3. Particulars of the order against which petition is made :  
7.10.1996 Before Hon.D.M. Dharmadhikari, J.  
Shri N.S. Kale with Shri Rohit Arya for the Petitioner.  
Heard on the question of admission.

For the reasons stated in the order passed by this Court today in W.P. No. 4206/96 which is disposed of after hearing the counsel for the petitioner on similar points, this petition is summarily dismissed. The reasons are as under :

2. Industrial dispute between the petitioner as employer and their workmen represented through the employees union, respondent No.4, with regard to wage revision, dearness allowance and leave benefits was referred to the M.P. Industrial Court at its Bench Raipur under Sec. 51(1) (a) of the M.P. Industrial relation's Act, 1960 vide order of reference dated 26.2.1993.
3. During pendency of the reference, services of certain number of workmen were dispensed with or discontinued. At the instance of the employee's union, an additional term of reference was made to the Industrial Court on 27/31.7.1994, on the dispute with regard to grant of interim relief to them

as a result of dispensation of their services and pending adjudication of the earlier dispute.

4. Against the terms of reference made to the Industrial Court, the employer preferred a writ petition (W.P.No.1231/95) in the Indore Bench of this High Court. On the basis of the additional term of reference, the Bench of the Industrial Court at Jabalpur to which the case was transferred, on 12.10.1995 passed an order granting interim relief to the workmen directing the employer to reinstate them in service or pay them at the rate of last wages drawn at the time of termination. The learned Single Judge (N.K.Jain, J) by order passed on 27.9.96, dismissed the writ petition and maintained the terms of reference. During pendency of the writ petition, on 3.11.1995 the Indore Bench of the High Court had stated the operation of the order dated 12.10.95 granting interim relief of reinstatement or payment of wages in lieu thereof.

5. The learned Single Judge while dismissing the petition against the additional term of reference, with regard to the Impugned Order dated 12.10.95 of the Industrial Court, made the following observations :

"Right at the threshold, it needs to be mentioned that in pursuance of state Government's orders dated 27.7.95 adding an additional term of reference as noted in para 4 above, the Industrial Court Bench Raipur has already passed order dated 12.10.95 granting interim relief. The order remains unchallenged as on today. The petitioners have, however, moved an amendment application (I.A.No.4563/96) as late as on 9.9.96 seeking incorporation of an additional relief for quashment of the said order. The order is passed within the jurisdiction of Jabalpur Bench of this Court and entertain any petition challenging the said order. As already pointed out, the amendment has been moved belatedly during the hearing of this petition and I, therefore, decline to allow the same leaving the petitioners free to challenge the order by filing appropriate petition before the Jabalpur Bench of this Court."

It is pointed out by the learned counsel appearing that against the order of the learned Single Judge, they would be preferring a Letters Patent Appeal for which limitation has not expired.

6. This Court declines to entertain this petition is the validity of the order of the learned Single Judge as also the correctness of the observations made by the Bench in paragraph 8, quoted above, would be subject matter of L.P.A.

7. Even otherwise, this Court does not find any justification to interfere in the order granting interim relief by the Industrial Court by its order dated 12.10.1995. By that order, the employer has been given an option to re-employ the workmen concerned or pay them wages last drawn by them in terms of the principles contained in Sec.17-B of the Industrial Disputes Act. The impugned interim order passed serves a dual purpose of ensuring that parties do not procrastinate the adjudication of the dispute and co-operate in its early decision. It also provides means of subsistence to the workmen pending adjudication of the disputes referred. There had already been several interlocutory proceedings arising out of the terms of reference. The disputes could not be decided although the case was referred as back as on 26.2.1993.

8. Learned counsel Shri N.S. Kale in assailing the impugned order granting interim relief to the workmen contended that the additional term referred has yet to be adjudicated upon and in the garb of granting interim relief full relief could not have been granted. Reliance is placed on A.I.R. 1961 SC 689 (The Delhi Cloth and General Mills

Co.Ltd. V. Shri Rameshwar Dayal and Another) and 1990 J.L.J. 66 (M.P.S.R.T.C. V. Virendra Singh). The cases cited are distinguishable on the facts of those cases. Here, pending decision of a reference regarding wage revision and leave benefits, the services of the workmen were discontinued. The additional term of reference is on interim relief which has been decided by the impugned order passed by the Industrial Court. The order is legal, just and proper. It gives the employer an option to take work from the employees by reinstating them or paying them wages last drawn if, as alleged by the employer, their industry is closed or the employees are contract labours. The order granting interim relief, in the back ground of the facts and circumstances stated above, can neither be held to be illegal nor without jurisdiction. No interference under Article 226 of the Constitution is called for in the order. Therefore the W.P. is summarily dismissed.

JUDGE  
(D.M.DHARMADHIKARI)