HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

THURSDAY ,THE TWENTY SEVENTH DAY OF MARCH
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE THE ACTING CHIEF JUSTICE SUJOY PAUL
AND
THE HONOURABLE SMT JUSTICE RENUKA YARA

WRIT APPEAL NO: 663 OF 2010

Writ Appeal under clause 15 of the Letters Patent Appeal preferred against the Order dated 23.07.2010 in W.P.No.7372 of 2004 on the file of the High Court.

Between:

J.V. SUDHAKAR, S/o J.K.Venkateswarlu, Paster, Andhra Prabha, Express Publications (M) Ltd., R/o:H.No.3/27, Sastha Nagar, Thathan Kuppam Villivakkam, MADRAS - 600 049 (T.N.) (formerly R/o.6/1, Arani Gangan Lane, Old Washermanpet, Madras – 600021)

...APPELLANT/PETITIONER

AND

1. Government of Andhra Pradesh, represented by its Principal Secretary, Labour, Employment, Training and Factories (Lab-I) Department, A.P.Secretariat, Hyderabad - 500 022.
2. The Commissioner of Labour, Andhra Pradesh, Anjaiah Bhavan, Chikkadpally, Hyderabad - 500 020.
3. Express Publications (Madurai) Limited, rep.by its, Chairman and Managing Director Sri Sonthalia, Registered Office Express Estate, Mount Road, Madras - 600 002 (Tamil Nadu).
4. Express Publications (Madurai) Limited, represented by, its Regional Manager, Behind Blue Moon Hotel, Begumpet, Hyderabad - 500 016 (A.P.)
5. Vasavi Communications Ltd. rep.by Sri Mootha Gopalakrishna, Registered Office Block 1, M/s Halycon Times, Nagamalli Thota Junction, Kakinada - 533 003 (A.P.)

...RESPONDENTS

I.A. NO: 1 OF 2010(WAMP. NO: 1590 OF 2010)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to forthwith suspend the impugned order dated 23.07.2010 in this W.P.No.7372 of 2004, with a consequent direction to the Respondents 3 and 4 herein to immediately sign, as the petitioner's employer, the Form-31 to be sent to Provident Fund authorities as also regularly pay the petitioner herein half his last

drawn salary by the 5th of every month so as to enable him and his family to lead at least an animal existence until the disposal of this Writ Appeal

Counsel for the Appellant: SRI. I. MALLIKARJUNA SHARMA

Counsel for the Respondent Nos. 1&2: GP FOR LABOUR

Counsel for the Respondent Nos. 3&4: SRI S. RAVINDRANATH

Counsel for the Respondent No.5: SRI KAILASH NATH P.S.S

The Court made the following: ORDER

THE HONOURABLE THE ACTING CHIEF JUSTICE SUJOY PAUL
AND
THE HONOURABLE SMT. JUSTICE RENUKA YARA

WRIT APPEAL No.663 OF 2010

JUDGMENT: *(Per Hon'ble The Acting Chief Justice)*

This Writ Appeal takes exception to the order passed in Writ Petition No.7372 of 2004, dated 23.07.2010. Aggrieved by the said order, the Writ Petitioner therein filed the present appeal. The prayer in the Writ Petition is as follows:

> "15. In the circumstances narrated and for the reasons stated supra, I submit my request that this Honourable Court may be pleased to issue an appropriate writ, order or direction, particularly a writ in the nature of Mandamus, to protect my right to life and livelihood guaranteed by Article 21 of the Constitution by directing the official respondents R-1 and R-2 as also Respondents 3 and 4 to immediately comply with and implement their statutory obligations and duties regarding the application of the provisions of Section 25-FF of the Industrial Disputes Act, of the Manisana Wage Board recommendations, and other grievances of mine raised in several representations of mine as also in this writ petition; award costs of the writ petition to me and pass any such order or further orders as this Hon'ble Court may deem fit and proper in the circumstances of the case."
>
> (Emphasis Supplied)

2. Briefly stated, the relevant facts for adjudication of this matter are that the appellant was working as Paster in Paste-up Department of Express Publications (Madurai) Limited working for Andhra Prabha. He worked in the said industry for about 26 years. He availed leave from 09.01.2003 to 03.02.2003. After completion of his leave, he was not permitted to join duty in

Express Publications Limited on the ground that the industry stood transferred to Vasavi Communications Limited/respondent No.5. The appellant claimed that he is not willing to join Vasavi Communications Limited. Thus, he may be given Voluntary Retirement from Service ('VRS') or he may be provided retrenchment under Section 25FF of the Industrial Disputes Act, 1947 ('ID Act').

3. When the grievance of the appellant was not redressed, he filed the instant Writ Petition. Learned Single Judge opined that when allegations of statutory violations are there, the Writ Petition is maintainable. On merits, learned Single Judge considered the ambit and scope of Section 25FF of the ID Act and opined that the said provision nowhere suggests that consent of employee is required to be taken before the transfer of his service to transferee undertaking. It was further held that the question of payment of compensation would arise only when it is established that because of transfer of undertaking, the services of the workman have been interrupted. Putting it differently, learned Single Judge opined that if there is no violation of Section 25FF of the ID Act, the employee cannot claim compensation as envisaged under the said provision.

4. Learned counsel for the appellant remained absent. We have perused the grounds and it is seen that the appellant has alleged that the industry was illegally locked out by the employer. It is further averred that the appellant refused to join Vasavi Communications Limited and intended to work with his original employer. The appellant should have been given the benefit of VRS. In alternative, the compensation under Section 25FF of the ID Act should have been extended in his favour. Since the service of the appellant has not been terminated, he has right to join back with original employer.

5. Learned counsel for the respondents supported the impugned order passed by the learned Single Judge.

6. As noticed, the learned counsel for the appellant has not chosen to argue this old matter and therefore, we have heard the learned counsel for the respondents and perused the necessary material papers placed on record.

7. It is seen that the learned Single Judge considered the order passed in W.P.No.756 of 2003, dated 10.01.2003 and reproduced the same as under:

"After detailed discussions of the issue of transfer, the Joint Commissioner of Labour, Hyderabad II stated that both Managements of Express Publications (Madurai) Limited and M/S Vasavi Communications Limited should comply with Section 25-FF of the I.D. Act, 1947, while transferring the services of the employees and there shall be no interruption in service of the employees because of the transfer and that the terms and conditions of service applicable to the employees of Andhra Prabha under the new management of M/s Vasavi Communications Limited shall be the same as that were applicable to them before transfer from the management of M/s Express Publications (Madurai) Limited and that in the event of future retrenchment, M/s Vasavi Communications Limited is legally liable to pay compensation on the basis that the service of the employees has been continuous and had not been interrupted by the transfer. It is further made clear that violation of Section 25-FF of the I.D. Act, 1947 will attract penal provisions and that both the managements should abide by the provisions of Section 25-FF of the I.D Act, 1947 while transferring the services of the employees of Andhra Prabha from M/s Express Publications (Madurai) Limited to M/s Vasavi Communications Limited. In view of the order passed by the 1st respondent, the interest of the members of the petitioner-union is very much protected and therefore I am of the considered view that the relief claimed is very much satisfied by the said proceedings of the 1st respondent.

Accordingly, expecting that the respondents will safeguard the interest of the members of the petitioner - union and in view of the above mentioned proceedings, the Writ Petition is disposed of. No costs."

(Emphasis Supplied)

8. After quoting the aforesaid paragraph, the learned Single Judge opined that the concept of 'consent' is alien to Section 25FF of the ID Act. The reproduced portion of the order in W.P.No.756 of 2003 shows that the interest of members of the petitioner's union were protected and in this background, the Court opined

that relief claimed stood satisfied and accordingly, the petition was disposed of. The appellant in specific terms made clear that he is not willing to work with Vasavi Communications Limited.

9. In the prayer of the Writ Affidavit, the Writ Petitioner/appellant prayed for grant of compensation under Section 25FF of the ID Act or as per Manisana Wage Board recommendations. The appellant nowhere prayed for a mandamus for permitting him to join in Express Publications Limited. The transfer of Express Publications Limited to Vasavi Communications Limited was also not called in question.

10. In this view of the matter, no fault can be found in the impugned order of the learned Single Judge. In the grounds, the appellant has relied on certain judgments relating to validity of transfer of the undertaking, but no such judgment is of any assistance to the appellant because the appellant has not questioned the transfer of the industry. His only prayer is to comply with Section 25FF of the ID Act. Since learned Single Judge has taken a plausible view that the appellant is not entitled to get such benefit, we find no reason to interfere in this intra-Court appeal.

11. Accordingly, this Writ Appeal is **dismissed.** There shall be no order as to costs. Miscellaneous applications, if any pending, shall stand closed.

Sd/- P. Ch. NAGABHUSHAMBA
DEPUTY REGISTRAR

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SECTION OFFICER

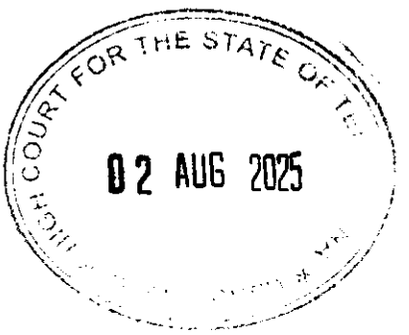
To,

1. One CC to SRI. I. MALLIKARJUNA SHARMA, Advocate [OPUC]
2. Two CCs to GP FOR LABOUR ,High Court for the State of Telangana at Hyderabad [OUT]
3. One CC to SRI. S. RAVINDRANATH, Advocate [OPUC]
4. One CC to SRI.KAILASHNATH P.S.S., Advocate [OPUC]
5. Two CD Copies

B M
PVL

HIGH COURT

DATED:27/03/2025



JUDGMENT

WA.No.663 of 2010

DISMISSING THE WRIT APPEAL WITHOUT COSTS

23/7/25