(2012) 10 MAD CK 0182

Madras High Court

Case No: Writ Petition No''s. 17458, 21236 of 2001 and 23830 of 2003

Bharathiya Kovai Mavatta Podhu Thozhilalar Sangam		APPELLANT
	Vs	
Management of Universal Radiators Limited		RESPONDENT

Date of Decision: Oct. 5, 2012

Acts Referred:

- Industrial Disputes Act, 1947 - Section 11A, 18(1), 25M, 25N, 25N(6)

Citation: (2012) 4 LLJ 819

Hon'ble Judges: T.S. Sivagnanam, J

Bench: Single Bench

Advocate: G.B. Saravana Bhavan in W.P. Nos. 17458/2001 and V. Karthick for R. Asokan in W.P. No. 21236/2001 and 23830/2003, for the Appellant; V. Karthick and R. Asokan in W.P. Nos. 17458/2001 and G.B. Saravana Bhavan and K. Karthikeyan, G.A. in W.P. No. 21236/2001 and 23830/2003, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

T.S. Sivagnanam, J.

The common issue involved in all these three writ petitions concerns the dispute between the Management of Universal Radiators Limited, Coimbatore and its workmen and hence the Writ Petitions were heard together and are disposed of by this common order. For the sake of convenience the parties shall be referred to as the Management and its workmen. The Management is engaged in the manufacture of Radiators for supply to various Automobile Manufactures. During 1998, the Management filed an Application before the Joint Commissioner of Labour, Coimbatore, u/s 25-M of the Industrial Disputes Act (ID Act) seeking permission to lay off 105 workmen. The Application was rejected by order dated October 17, 1998. Thereafter, the Management filed an Application u/s 25-N of the I.D. Act, requesting permission to retrench 31 workmen. This Application was

rejected by the Authority by order February 13, 1999. The Management filed a Review Petition u/s 25-N(6) of the I.D. Act to review the order dated February 13, 1999. The workmen filed a Writ Petition contending that a Review Petition was not maintainable and sought for a writ of prohibition to prohibit the authority from hearing the Review Petition. This Writ Petition being W.P. No. 7998/1999 was disposed by this Court by order dated June 21, 1999, giving liberty to the petitioners therein to raise preliminary objection before the Government. Thereafter, the Government after hearing the Management and its workmen by Government Order dated December 29, 1999, referred the matter to the Industrial Tribunal for adjudication to answer the following:

Whether the demand of the Management of Universal Radiators Ltd., Coimbatore, to grant permission to retrench the 31 workmen in their Establishment is justified?

2. Before the Tribunal, on behalf of the workmen Mr. Thiyagarajan was examined as W.W. 1 and 19 documents were marked as Exhibits W-1 to W-19. On behalf of the Management Mr. S. Raja Sundar, was examined as M.W. 1 and 89 documents were marked as Exhibits M-1 to M-89. To Answer the reference, the Industrial Tribunal framed three questions viz.

(a) whether the necessity to retrench was established ?

(b) whether there was functional integrality between the four units of the Management viz. Unit I, Unit II, Unit III and Unit IV, all situated at Coimbatore? and

(c) How many of the workmen have to be retrenched?

The Tribunal by award dated July 26, 2001, held that the Management has established the necessity to retrench. It further held there was no functional integrality between the four Units and ultimately held that the Management should have a humane approach and retrench only 21 out of the 31 workmen and 10 workmen to be retained. This award dated July 26, 2001 is a subject matter of challenge in W.P. No. 17458/2001 filed by the workmen as against that portion of the award granting permission to retrench 21 workmen and W.P. 21236/2001, has been filed by the Management against that portion of the same award declining permission to retrench 10 workmen. The Writ Petition filed by the workmen was admitted and interim stay of the award was granted on December 5, 2001, and subsequently the same was directed to continue till the disposal of the Writ Petition by order dated December 5, 2001.

3. When these writ petitions were pending, the Management suspended production on July 2, 2002. The workmen raised a dispute and the Government by order dated October 1, 2002, referred the dispute to the Industrial Tribunal for adjudication to answer the reference,

whether the non employment inflicted on its workers by the Management of the Universal Radiators under the Notice dated July 2, 2002, temporarily suspending the

production work, without obtaining prior permission is justified, if not what is the relief entitled to the workmen.

The Tribunal by an Award dated November 14, 2003, held that it is not a case of denial of employment and the dispute was dismissed. The Workmen challenged the award in 2012, by filing W.P. No. 21230/2012. The said Writ Petition was dismissed by this Court by order dated August 3, 2012, on the ground that the inordinate delay of more than 81/2 years in challenging the award has not been explained and the Writ Petition is liable to be dismissed on the ground of laches. The learned counsel for the workmen submitted as against the said order Writ Appeal has been preferred and the same has been numbered and yet to be listed for admission.

4. By Application dated August 21, 2002, filed u/s 25-O of the I.D. Act, the Management sought permission from the Government for closure of the undertaking. The Government by order dated October 8, 2002, rejected the Application. The Management preferred a Review Application u/s 25-O(5) of the I.D. Act, seeking review of the order of rejection. The Review Application was rejected by order dated July 17, 2003. The Management has filed W.P. No. 23830/2003, challenging the Government Order dated July 17, 2003. Thus, in these three writ petitions the correctness of the Award in I.D. No. 329/2001 dated July 26, 2001 and the correctness of the order passed by the Government rejecting permission for closure are challenged.

5. I have heard Mr. V. Karthik, learned counsel appearing for Mr. R. Asokan, learned counsel for the Management and Mr. G.V. Saravanabhavan, learned counsel for the Workmen and carefully perused the entire materials on record.

6. Before, I venture into the merits of the matter, it would be necessary to refer to the affidavit filed by the Managing Director of the Company in W.P. No. 17458/1002. This Affidavit is primarily to bring on record certain subsequent developments.

7. As noticed above, the Management sought permission to retrench 31 workmen and the Tribunal by its award dated July 26, 2001, granted permission to retrench 21 workmen and declined permission to retrench 10 workmen. The Management''s Application seeking permission for closure of the Unit was rejected by Government Order dated October 8, 2002, and the Review Petition was also rejected by the Government by order dated July 17, 2003. In the affidavit filed by the Managing Director, it is stated that on the date of the Application for closure, there were 118 workmen on roll and except 17 of the workmen all the workmen have left their employment receiving compensation. It is further stated that the Tribunal gave permission to retrench 21 workmen out of whom 14 have left their employment and only 7 are remaining and out of 10 for whom permission was declined by the Tribunal 8 have left and there are only 9 workmen out of this 31 sought to be retrenched.

8. The relevant paragraphs of the affidavit reads as follows:

9. I submit that pending the above writ petitions most of the workmen left receiving compensation. On the date of the application for closure there were 118 workmen on the rolls. Except 17 of the workmen all the workmen have left their employment receiving compensation.

10. I submit that the Tribunal gave permission to retrench 21 out of the 31 workmen sought to be retrenched. Out of the said 21 workmen, 14 have left their employment and there are only 7 left. Out of the 10 for whom permission was declined by the Tribunal 8 have left. Thus there are only 9 workmen out of the 31 sought to be retrenched.

11. I submit that after the temporary suspension of production on July 2, 2002 the unit did not resume production in view of total lack of orders for its product. The unit remains closed for the past more than 8 years. Therefore as on date there are only 9 workmen out of the total 118 workmen who were on the rolls on the date of the closure application. In the present situation it is not possible for this respondent to resume production after more than 8 years in the absence of orders from the customers for its products. This respondent is willing to pay compensation to the 9 workers who declined to receive the retrenchment compensation.

12. It is submitted that only after taking into consideration of the circumstances under which this respondent sought permission to retrench the 21 workmen. In respect of the remaining 10 workmen the Tribunal declined permission only on the humanitarian ground. Therefore, the above writ petitions is devoid of merit and the same is liable to be dismissed.

Therefore, it appears that as on date the cases are canvassed by the Management and the workmen only in so far as 17 workmen out of the total 118 workmen who were on the roll on the date of Application for closure and 9 workmen out of the 31 sought to be retrenched, in all 26 workmen.

9. The learned counsel appearing for the workmen submitted that the labour Union accepts the affidavit filed by the Management and the number of workmen given therein and their endeavor is to protect the employment of these remaining workmen alone. In view of such stand taken by the parties to these writ petitions this order will cover only those 26 employees viz. 17 + 9 and the orders will not have any effect on such of those workmen who have left the services of the Management on their own accord during the pendency of the writ petitions or earlier.

10. The learned counsel for the Management firstly referred to the Award in I.D. No. 329/1999 dated July 26, 2001, and submitted that the Tribunal correctly framed the question as to whether there is necessity to retrench the surplus workmen and whether there was functional integrality between the four Units of the Management and after appreciating the document placed by the Management, held that there was necessity to retrench since statistics produced showed that there was accumulated loss for two years and fall in production. It is further submitted that

the Tribunal after taking note of the following decisions viz.

(i) The Associated Cement Companies Limited, Chaibassa Cement Works, Jhinkpani Vs. Their Workmen,

(ii) The Management of Pakshiraja Studios Vs. The Workers in Pakshiraja Studios represented by the Secretary, Commercial and Allied Employees''s Union,

(iii) Globe Theatre (Private) Ltd. v. Labour Court Madras 1968-I-LLJ-343 (SC)

(iv) O.P. Gupta Vs. Union of India (UOI) and Others, and

(v) Wipro Ltd. Vs. Regional Provident Fund Commissioner, held that there is no functional integrality, though there is commonness in the names of product and the centralised purchase of raw material and selling by Unit No. 1 is a device for convenience sake and has no relevance on the loss or profit of each Unit maintained separately and held that there is no functional integrality. The learned counsel also referred to the Exhibits viz. Profit and Loss account for the year 2000 and 2001 in this regard. The learned counsel submitted that when all the above points were held in favour of the Management, the Tribunal ultimately rendered a perverse finding by not granting permission for all the 31 workmen and by stating that the Management can have humane approach and granted permission to retrench only 21 workmen. Therefore, it is submitted that the award to that extent calls for interference.

11. The learned counsel appearing for the workmen submitted that the award of the Tribunal is absolutely perverse and has been rendered without considering the evidence placed by the workmen to show functional integrality between all the four Units. It is further submitted that though the Tribunal has referred to all the decisions which were cited, misdirected itself while applying those decisions to the facts of the case. It is submitted that the documents marked by the workmen viz. Exhibit W-1, W-2 series, W-3, W-4, W-7, and W-12, which were produced to prove functional integrality were not considered and the finding of the Tribunal is contrary to evidence and materials on record and therefore perverse. It is submitted by the learned counsel that the Tribunal ought not to have granted permission to retrench 21 workmen without any justifiable cause and without taking note of the stand of the Management and the earlier orders passed and since the finding of the Tribunal is totally perverse, the Award calls for interference.

12. The learned counsel for Management submitted that the Management by their Application dated August 21, 2002, filed u/s 25-O of the I.D. Act, requested permission for closure of the Unit. Detailed reasons were given as to why the Management proposed to close Unit supported by documents. However, the Government without considering the points canvassed by the Management by a cryptic order dated October 8, 2002, rejected the Application primarily due to the reason that the writ petition filed by the workmen being W.P. No. 17451/2001,

challenging the award of the Tribunal dated July 26, 2001, in I.D. 329/2001, is pending. It is submitted that the Government Order is out come of total non application of mind. It is further submitted that, thereafter the Management filed a Review Petition and detailed submissions were made and the Review Petition came to be rejected by an equally cryptic order dated July 17, 2003 and the Government failed to apply its mind judiciously and did not take note of the invasion of the industry by new manufacturing companies and introduction of new technology in manufacture of Radiators and change in purchase pattern which lead to lack of orders for the products of the Management. It is further submitted that the Government ought to have referred the matter to the Tribunal for adjudication without rejecting the same. In support of his contention, the learned counsel placed reliance the decision of the Hon''ble Supreme Court in S.G. Chemicals and Dyes Trading Employees'' Union Vs. S.G. Chemicals and Dyes Trading Limited and Another, and Orissa Textile and Steel Ltd. Vs. State of Orissa and Others,

13. The learned counsel appearing for the workmen submitted that the period for which the Management suspended its operation was between July 2, 2002 and August 14, 2002 and immediately thereafter, they filed an Application before the Government on August 21, 2002, u/s 25-O of the Act, seeking permission for closure. Therefore, the validity of the suspension of operation from July 2002 to August 2002, is a separate dispute and closure is a separate dispute. That in terms of sub-section 4 of Section 25-O of the Act, an order granting or refusing to grant permission, for closure shall be final and binding on all parties and shall remain in force, for one year from the date of the order. It is further submitted that in terms of sub-section (5) of 25-0 of the I.D. Act, the Government may review its order for granting or refusing permission and it is the discretion of the Government and "may" cannot be read as "shall" in the said provision. The learned counsel further submitted that though the workmen made elaborate submission before the Government on the aspect of functional integrality, the same was not considered by the Government while passing the order. The learned counsel by placing reliance on certain information obtained under the Right to information Act from the ESI and EPF authorities, submitted that the date of closure itself was on July 20, 2005, which is contrary to the stand taken by the Management. It is further submitted that the PF accounts are still being maintained and therefore, the interest of the small number of workmen remaining should be protected and the order passed by the Government refusing permission for closure should be confirmed.

14. Before I examine the aspect regarding the need for retrenchment, I shall first consider as to whether the finding of the Tribunal as regards the aspect of functional integrality is justified. The answer to this question would have an impact on the other issue namely as to whether there was a necessity to retrench 31 workmen and whether the permission sought for to close the Unit is proper. After having perused the Award in I.D. No. 329/1999, it is surprising to note that the Tribunal failed to advert to the documents marked by the workmen to prove that

the four Units of the Management were functionally integral. This itself would be a prima facie ground to interfere with the award.

15. It is not in dispute that Universal Radiator Ltd., had Four Manufacturing Units. They did not have different name, but were called Units I, II, III, IV. It is the case of the Management that Unit I manufactured Radiators and Oil Cooler; Unit II manufactured Radiators for Maruti Cars; Unit III manufactured Radiators for export and Unit IV manufacture Radiators for supply to Defence Department. The further case of the Management is that though the name of the Company for all the four Units is the same, and the Management is with the same family, each Unit is not inter dependent on each other for its existence and therefore, cannot be stated to be functionally integral.

16. At this stage, it would be useful to refer to the decision of the Hon''ble Supreme Court in the case of Associated Cement Cos. v. Their Workmen (supra) The Supreme Court while considering this question, observed that in order to hold that different parts, Units constitute one establishment certain salient features have to be satisfied however, there is not hard and fast rule that could be laid down and as to how many of the conditions have to be satisfied and therefore, each case has to be considered in the light of its own circumstances and there cannot be a straight jacket formula. The broad criteria or the tests evolved has been stated in paragraph 11, of the Judgment which is quoted below:

11. The Act not having prescribed any specific tests for determining what is ''one establishment'', we must fall back on such considerations as in the ordinary industrial or business sense determine the unity of an industrial establishment, having regard no doubt to the scheme and object of the Act and other relevant provisions of the Mines Act, 1952, or the Factories Act, 1948. What then is "one establishment" in the ordinary industrial or business sense? " It is, perhaps, impossible to lay down any one test as an absolute and invariable test for all cases. The real purpose of these tests is to find out the true relation between the parts, branches, units, etc. If in their true relation they constitute one integrated whole, we say that the establishment is one; if on the contrary they do not constitute one integrated whole, each unit is then a separate unit. How the relation between the units will be judged must depend on the facts proved, having regard to the scheme and object of the statute which gives the right of unemployment compensation and also prescribes a disqualification therefor. Thus, in one case the unity of ownership, management and control may be the important test; in another case functional integrality or general unity may be the important test; and in still another case, the important test may be the unity of employment. Indeed, in a large number of cases several tests may fall for consideration at the same time. The difficulty of applying these tests arises because of the complexities of modern industrial organisation; many enterprises may have functional integrality between factories which are separately owned; some may be integrated in part with units or factories having the

same ownership and in part with factories or plants which are independently owned.

17. The Tribunal accepted the fact that all the four Units are manufacturing Radiators. But, it rendered a finding that Unit III and IV are exclusively for export and defence respectively and Unit I for local orders. In para 26 of the award a finding has been given that there is difference in quality and different designs and one product cannot be utilised as the product of another unit. However, for rendering such finding, the Tribunal has not referred to any evidence which was placed on record. Therefore, this finding appears to be on the perception of the Tribunal which could not have been the basis of the award therefore, such finding is perverse. As noticed earlier, Supreme Court has held that there is no hard and fast rule and there cannot be straight jacket formula to decide the question of function integrality. This aspect has been reiterated in the Judgment of the Hon''ble Supreme Court in L.N. Gadodia and Sons and Another Vs. Regional Provident Fund Commissioner, s follows;

16. Now, on the question as to whether such two units should be considered as one establishment or otherwise, there is no hard-and-fast rule. However, guidelines have been laid down in two judgments of this Court rendered way back in the years 1959-1960 and they are followed from time to time. Thus, in Associated Cement Companies Ltd. v. Workmen (supra) a Bench of three Judges was considering the question as to whether the factory and the limestone quarry belonging to the appellant Company should be considered as one establishment for the purpose of the Industrial Disputes Act, 1947. This Court observed therein as follows:

11. "What then is "one establishment" in the ordinary industrial or business sense? " It is, perhaps, impossible to lay down any one test as an absolute and invariable test for all cases. The real purpose of these tests is to find out the true relation between the parts, branches, units, etc. If in their true relation they constitute one integrated whole, we say that the establishment is one; if on the contrary they do not constitute one integrated whole, each unit is then a separate unit. How the relation between the units will be judged must depend on the facts proved, having regard to the scheme and object of the statute which gives the right of unemployment compensation and also prescribes a disqualification therefor. Thus, in one case the unity of ownership, management and control may be the important test; in another case functional integrality or general unity may be the important test; and in still another case, the important test may be the unity of employment. Indeed, in a large number of cases several tests may fall for consideration at the same time. The difficulty of applying these tests arises because of the complexities of modern industrial organisation; many enterprises may have functional integrality between factories which are separately owned; some may be integrated in part with units or factories having the same ownership and in part with factories or plants which are independently owned.

17. Later in para 5 of Pratap Press v. Workmen and Another Bench of three Judges explained the above proposition in Associated Cement Cos. v. Their Workmen (supra) in the following words:

5. "While pointing out that it was impossible to lay down any one test as an absolute and invariable test for all cases it observed that the real purpose of these tests would be to find out the true relation between the parts, branches, units, etc. This Court however mentioned certain tests which might be useful in deciding whether two units form part of the same establishment. Unity of ownership, unity of management and control, unity of finance and unity of labour, unity of employment and unity of functional "integrality" were the tests which the Court applied in that case.

18. Accordingly, depending upon the facts of the particular case, in some cases the units concerned were held to be the part of one establishment whereas, in some other cases they were held not to be so. Regl. Provident Fund Commr. v. Dharamsi Morarji Chemical Co. Ltd. and Regl. Provident Fund Commr. v. Raj''s Continental Exports (P) Ltd. are cases where the two units were held to be independent. In Regl. Provident Fund Commr. v. Dharamsi Morarji, Chemical Co. Ltd. the appellant Company was running a factory manufacturing fertilisers at Ambarnath in District Thane, Maharashtra since 1921. The appellant established another factory at Roha in the adjoining district in the year 1977 to manufacture organic chemicals with separate set of workers, separate profit and loss account, separate works manager, plant superintendents and separate registration under the Factories Act. The two were held to be separate for the purposes of coverage under the Provident Funds Act. In Regl. Provident Fund Commr. v. Raj''s Continental Exports (P) Ltd. (supra), Regl. Provident Fund Commr. v. Dharamsi Morarji Chemical Co. Ltd. (supra) was followed since the two entities had separate registration under the Factories Act, 1948 Central Sales Tax Act, 1956, Income Tax Act, 1961, Employees" State Insurance Act, 1948 separate balance sheets and audited statements and separate employees working under them.

19. As against that in Rajasthan Prem Krishan Goods Transport Co. v. Regl. Provident Fund Commr. and Regl. Provident Fund Commr. v. Naraini Udyog the units concerned were held to be the units of the same establishment. In Rajasthan Prem Krishan Goods Transport Co. v. Regl. Provident Fund Commr. the trucks plied by the two entities were owned by their partners, ten out of thirteen partners were common, the place of business was common, the management was common, the letterheads bore the same telephone numbers. In Regl. Provident Fund Comr. v. Naraini Udyog the two entities were located within a distance of three kilometres as separate small-scale industries but were represented by the members of the same Hindu Undivided Family. They had a common head office at New Delhi, common branch at Bombay and common telephone at Kota. The accounts of the two entities were maintained by the same set of clerks. Separate registration under the Factories

Act, the Sales Tax Act and the ESI Act were held to be of no relevance and the two units were held to be one establishment for the purpose of the Provident Funds Act.

18. The crucial evidence which has been ignored by the Tribunal or rather brushed aside is the evidence regarding the centralised purchase which was done in Unit I from which unit the 31 workmen were sought to be retrenched. The finding of the Tribunal that the Centralised purchase of raw materials and selling by Unit I is a device for convenience sake and has no relevance or bearing on the loss and profit of each Unit maintained separately is without any basis. Therefore, if it is an admitted fact that the procurement of raw material is through Unit I and the selling of the manufactured goods are through unit I, then the only answer could be that Unit I forms integral part of other units and without procurement of raw material from unit 1, the other units cannot carry on their manufacturing activity and this connection is sufficient to hold that there is general unity among the four units apart from the other tests of common ownership and control which is already satisfied.

19. As pointed out earlier, the Tribunal failed to advert to any of the documents marked on the side of the workmen namely the schedule for shipment for export Radiators, the series of documents, Exhibit W-2 relating to the orders place for manufacturing oil cooler, Exhibit W-3, the schedule for the export Radiators, Exhibit W-7, the production plan and the settlement u/s 18(1) of the Act, Exhibit W-12 for fixing wages and production norms for the workmen and the admission of M.W. 1, that the said Radiators are being manufactured in Unit I.

20. Therefore, the award passed by the Tribunal is wholly perverse. In view of the above materials which are available on record, it can be safely concluded that there is functional integrality between four units of the same Management. If there was such integrality, the reason assigned by the Management to retrench 31 workmen was only a ruse to send them out of employment and not based on lack of orders or such other matters. Therefore, the need for retrenchment itself lacks bona fide.

21. The Labour Court, though answered two of the questions in favour of the Management ultimately held that the Management should adopt a humanitarian approach and retrench only 21 of the workmen. This finding is wholly without jurisdiction. The Tribunal at best could have accepted or rejected the reference in toto. Further, the Tribunal presumably, applying the principles u/s 11A of the Act rendered such finding. This finding of the Tribunal was patently irregular and without jurisdiction. Hence, the award calls for interference accordingly, the same is set aside. However, in view of the subsequent development stating that only 9 out of the 31 workmen are left, the benefit of this order shall enure only to such of those 9 workmen.

22. Coming to the next aspect as to whether the order passed by the Government rejecting the request made by the Management for closure is valid and proper.

Admittedly, there is no allegation of any procedural infirmity in the decision making process. Therefore, all that is required to be seen is whether there was materials available before the Government to accept the request of the Management.

23. The learned counsel for the workmen submitted that the word "may" occurring in sub-section (5) of Section 25-O of the I.D. Act, cannot be read as "shall". However, this question has been decided by the Constitution Bench in Orissa Textiles and Steels Ltd. v. State of Orissa and (supra), the Hon''ble Supreme Court has held that the work "may" used in Section 25-O(5) of the I.D. Act has to be necessarily mean ''shall. Therefore, the contention raised by the learned counsel for the workmen in this regard is not well founded.

24. As held by the Hon''ble Supreme Court in the case of Orissa Textiles and Steels Ltd v. State of Orissa and (supra), the Government while considering an application u/s 25-O of the Act after affording opportunity to the employers, workmen and all persons interested, the Government would have to ascertain whether the information furnished is correct and whether the proposed action is necessary and if so to what extent and the Government thereafter has to pass a written order containing reasons. The Government after considering the contentions of the Management as well as the Union observed that citing the same ground it had stated in 1998 for retrenching 31 workmen, the Management has sought for closure. The Government observed that the request made by the Management for retrenching 31 workmen was found to be not justified by the Department. In this order I have held that the award of the Tribunal granting permission to retrench 21 workmen is illegal and a perverse award. Therefore, when the Management did not have any new reasons, except the reasons it had mentioned for retrenchment, the decision of the Government to reject the permission for closure was perfectly valid. Furthermore, certain dates would be very relevant.

25. The Management at the first instance filed an Application on August 18, 1998 u/s 25-M of the Act to lay off 105 workmen, this was rejected by the Joint Commissioner of Labour by order dated October 17, 1998, Immediately the Management filed an Application u/s 25-N of the Act to retrench 31 workmen. This was rejected on February 13, 1999, Management filed application to review such order and the same was referred to the Tribunal for adjudication, by order dated December 29, 1999. The Tribunal passed an award order on July 26, 2001, granting permission to retrench 21 workmen. The workmen filed writ petition and obtained stay of the award on December 5, 2001. Immediately thereafter the Management suspended operations from July 2, 2002 to August 14, 2002. On the expiry of the period, on August 21, 2002, they filed an application u/s 25-O of the Act seeking permission for closure. Thus, these dates will clearly establish that the Management was attempting to deny employment to the workmen by adopting one reason or other. Further the Government after bearing in mind the underlying object of the I.D. Act and to prevent hardship of unemployment, rejected their request. This order of

rejection was also confirmed by the Government by rejecting the review petition filed by the Management. After perusal of the Government orders, it is evident that the Government addressed the relevant issues while refusing to grant permission and it is not a case where the order is an out come of irrelevant considerations. Therefore, taking note of the limited scope of enquiry in a writ petition filed against the impugned Government order, this Court is not inclined to interfere in the Government order since it is not a case where the Government took note of any irrelevant, extraneous or non existence factors, nor there is any error apparent on the face of the record, to enable the writ Court to interfere. The adequacy of the reason assigned by the Government cannot be subject matter of judicial review in this writ petition in the absence of any error of law apparent on the face of the order.

26. Further, even in the Review Petition the Management were unable to bring on record any new factors, other than those mentioned by them in their Application seeking permission for closure While considering such application seeking permission for closure, the Government found that no new reasons have been assigned but the same grounds which were raised for retrenching 31 workmen also found place in the application for closure. Thus, the order passed by the Government, refusing permission for closure is perfectly legal and valid and no grounds have been made to interfere with the order.

27. Accordingly, W.P. No. 17458/2001 is allowed and the award in I.D. No. 329/1999 dated July 26, 2001 is set aside and benefit of this order shall enure only to 9 of the 31 workmen involved in the dispute as it is accepted by the workmen during the hearing of these Writ Petition that only 9 of the workmen were left. Therefore, such of those workmen who have already left employment the benefit of this order shall not enure to them. W.P. Nos. 21236/2001 and W.P. No. 23830/2003 filed by the Management are dismissed. No costs.