

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 27TH DAY OF SEPTEMBER 2005

BEFORE

THE HON'BLE MR.JUSTICE R.GURURAJAN

WRIT PETITION NO.20568 OF 2005 (L-TER)

BETWEEN

Elastrex Polymers Pvt.Ltd.
541, Jakkasandra village
Arasinakunte
Bangalore 560 123
Represented by its
Production Manager . . . Petitioner
(By Sri K.Prabhakar Rao, Adv.)

AND

1. Arun Kumar
Son of Sri Hanumantharayappa
Channadevi Agrahara
Kadanur Post
Doddaballapur Taluk
Bangalore District

2. Thimme Gowda
Son of Sri Veerakempaiah
Channadevi Agrahara
Kadanur Post
Doddaballapur Taluk
Bangalore District . . . Respondents
(By Sri M.C.Narasimhan, Sri K.B.Narayana
Swamy, Advocates)

This writ petition is filed under Articles 226 and 227 of the Constitution of India praying to quash the common award dated 1.7.2005 in ID Nos.12 and 13 of 2005 passed by the Additional Labour Court, Bangalore (Annexure-H).

This writ petition coming on for Preliminary Hearing in B-Group this day, the Court made the following:

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ORDER

1. Petitioner Elastrex Polymers Private Limited, Bangalore is before me challenging the award of the First Additional Labour Court, Bangalore dated 1.7.2005 passed in ID No.13 of 2005.

2. Petitioner is engaged in manufacturing rubber Havai sheet which is a prime material for making hawai chappals. Respondents were working as Operators in the petitioner factory. Certain disciplinary proceedings were initiated against them. Petitioner participated in the enquiry. Enquiry Officer submitted his report holding the workmen guilty of the charges. Accepting the report, management dismissed the respondents workmen from their services in terms of the order dated 16.12.2004. Same was challenged by way of an application under Section 10(4-A) of the Industrial Disputes Act before the First Additional Labour Court, Bangalore. Parties entered appearance and filed their respective statements. Evidence was recorded. Labour Court,

after hearing, has chosen to pass the following award:

"The petitioners are allowed with costs.

The Order of the respondent dated 16.12.04, dismissing the Petitioners from service are set aside and quashed.

The Respondent is directed to reinstate the Petitioners into service with continuity of service forthwith.

The Petitioners are entitled to 70% of the back wages from the date of dismissal till the date of reinstatement.

Costs are quantified at Rs.1,000/- (Rupees one thousand only) each in each of the cases."

This award is challenged before me by the management.

3. On the last occasion, matter was listed before this Court on 30.8.2005. Court suggested certain proposals for the parties to get the matter amicably settled in their own interest.



Today the Court is glad to note that the parties have come to an amicable settlement in terms of the suggestions made by this Court.

4. Respondent workmen are agreeable to give up back wages in the event of their reinstatement plus continuity of service for retiral benefits.

5. Sri Prabhakar Rao, learned counsel for the petitioner has no objection to reinstate the workmen. He says that no continuity of service be granted. He further says that the workmen have committed serious mistake and that mistake has to be taken serious view by this Court in the interest of discipline. Lastly he says that at least an undertaking is necessary by the workmen in the matter.

6. Since the parties have almost come to a settlement, the only hitch is with regard to undertaking in terms of the submission made by Sri Prabhakar Rao, learned counsel for the petitioner.

7. In the circumstances, in the light of the parties ^{- Resp} have come to a settlement on almost all other issues, I deem it proper to dispose of this writ petition with a direction to the petitioner to reinstate the workmen on or before 15.10.2005. The said reinstatement is subject to the respondent workmen furnishing their undertaking to the effect that they would not involve themselves in any similar misconduct and that they would abide by the standing orders applicable to them. Only on obtaining the Rd undertaking, management is to reinstate the workmen in terms of this order.

Parties are agreeable for continuity of service for the purpose of retiral benefits. Continuity of service is therefore granted only for the purpose of retiral benefits.

In so far as back wages are concerned, Learned counsel for the workmen says that their clients give up their claim for back wages. His submission is recorded. However, management is to pay wages from the date of the award till the

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date of reinstatement. Workmen are entitled for two months wages only in terms of this order.

Time for payment is four weeks from today.

8. Writ Petition stands disposed of with the above manner. Award is suitably modified. Ordered accordingly. No costs.

Sd/-
Judge

*rk.