

(1998) 12 MAD CK 0040

In the Madras High Court

Case No : Writ Petition No's. 13626 and 19531 of 1990

Ashok Leyland Ltd. and Michael Selvaraj S.

APPELLANT

Vs

Presiding Officer, Labour Court and Another

RESPONDENT

Date of Decision : 07-12-1998

Acts Referred:

Constitution of India, 1950 — Article 226
Industrial Disputes Act, 1947 — Section 11A, 12(3)
Penal Code, 1860 (IPC) — Section 323, 341
Police Act, 1861 — Section 30(2)
Probation of Offenders Act, 1958 — Section 4(1)

Citation : (1999) 1 LLJ 788 : (1999) 1 MLJ 441

Hon'ble Judges : P. Sathasivam, J

Bench : Single Bench

Advocate : S. Ayyathurai, in W.P. No. 19531/1990, for the Appellant; Sanjay Mohan, in W.P. No. 13626/1990 and Ramasubramaniam Associates in W.P. No. 19531/1990, for the Respondent

Final Decision : Allowed

Judgement

P. Sathasivam, J.—Aggrieved by the Award of the Labour Court, Coimbatore in I.D. No. 194 of 1986, the Management has filed W.P.

No. 13626 of 1990 and the workman has filed W.P. No. 19531 of 1990. Since both the writ petitions arise out of the very same award, the same

are disposed of by the following common order.

2. For the convenience I shall refer the Management as the petitioner and the workman as second respondent. The case of the petitioner-

management is briefly stated hereunder:- The petitioner company which is incorporated under the Companies Act, carries on business in the

manufacture of Heavy Duty Commercial Vehicles and Industrial Engines. The second respondent was recruited as a daily rated semi-skilled

operator on temporary basis from July 16, 1980. Even within two months of his joining service as temporary employee, he resorted to stoppage of work in a concerted manner on August 29, 1980. Again, he indulged in riotous and disorderly behaviour for which he was given a charge memo dated September 1, 1980, As he expressed regret for his conduct and assured good behaviour, he was merely awarded the punishment of suspension without wages for a few days. Again for a similar incident occurred on November 19, 1980, he was awarded a punishment of suspension without wages between November 20, 1980 and December 11, 1980. For the misconduct which took place on June 29, 1981 on the assurance made by him, he was cautioned and let off. On August 12, 1981, the second respondent along with a group of employees, went to the canteen in the factory which was run by a Contractor and assaulted him resulting in injuries. Following the morning incident, a series of violent acts of rowdism and goondaism and arson were indulged by a group of workmen in which a number of executives and supervisory staff of the Company were assaulted. In view of the grave situation, the Deputy Superintendent of Police, Hosur, promulgated an order u/s 30(2) of the Police Act to prevent further escalation of the incidents. The petitioner declared a lock-out which continued nearly for three months. Notwithstanding his participation in such violent incidents in the morning including assault on the canteen contractor, the second respondent proceeded to the shop floor along with several others and assaulted his Departmental Head V. Sarathy, since the second respondent was questioned as to why he was instigating others to stop work. The said Sarathy sustained bleeding injuries. In respect of both the incidents involving 2nd respondent and others, police complaints were given and the 2nd respondent was charge-sheeted by the police. With reference to the assault on V. Sarathy, C.C. No. 115 of 1982 was filed before the Court of Judicial Second Class Magistrate, Hosur, which after full trial ended in conviction of the 2nd respondent under Sections 341 and 323 of I. P. C. The second respondent herein was guilty of such violent acts and consequently, he had to be summarily dismissed by an order dated August 18, 1981. No enquiry could be conducted in view of the tense situation prevailing in the Unit and its vicinity and also the lock-out declared by the petitioner Company. On behalf of the second respondent, a Trade Union in the petitioner Establishment has

raised an Industrial Dispute regarding the dismissal of the second respondent along with the dismissal of few other workmen. On reference by the

Tamil Nadu Government, it was taken on file by the Industrial Tribunal, Madras as I.D. No. 45 of 1983. Ultimately, by a settlement u/s 12(3) of

the Industrial Disputes Act, the said dispute was settled under which it was agreed that the Union and the Management will discuss the issue

bilaterally and settle it amicably and it was also agreed to withdraw the I.D.45 of 1983. Accordingly, the said Industrial Dispute was dismissed as

withdrawn by Award dated December 21, 1986. Thereafter the matter was discussed including the non-employment of 2nd respondent at great

length on several occasions and finally resolved the matter under a 12(3) settlement dated May 26, 1987. As per clause 4 of the settlement dated

May 26, 1987 it was agreed between the parties that only 20 workmen out of the 78 will be offered re-employment as fresh entrants. The second

respondent was not one of them.

3. It is further stated that inspite of the above fact, the second respondent has raised an Industrial Dispute regarding his non-employment before the

Labour Officer, Krishnagiri after a lapse of nearly 3 years. Thereafter the matter was taken on file as I.D.194 of 1986. Before the Labour Court

both the parties were permitted to adduce evidence. After having found the rulings of this Court and other Courts have held that workmen

indulging in misconducts of violence deserved to be dismissed, the Labour Court, Coimbatore has gone further and observed that on the basis of

sympathy, the 2nd respondent should be taken as a fresh entrant but without continuity of service and back wages. Against the said Award, the

Management has filed the earlier writ petition and with regard to disallowed claim, the workman has also filed the latter writ petition as stated

above.

4. The case of the 2nd respondent-workman as seen from the affidavit filed in W.P. No. 19531 of 1990 is briefly stated hereunder:-

It is stated that the finding of the first respondent Labour Court that the charge of assault by him on M.W.1 has been proved as perverse. It has

failed to consider the discrepancies between the evidence of M.W.2 and M.W.1. Likewise it has not considered the discrepancies in the complaint

given by M.W. 1 and his statement before the Court. At any rate, the first

respondent ought to have directed the Management to reinstate the 2nd respondent-workman as a permanent worker and not as a new entrant.

5. In the light of the above pleadings, I have heard Mr. Sanjay Mohan, learned counsel for the Petitioner-Management and Mr. S. Ayyathurai, learned counsel for 2nd respondent-workman.

6. Mr. Sanjay Mohan, learned counsel for the petitioner- management has raised the following two contentions :-

(i) In view of the two settlements, dated August 9, 1985 and May 26, 1987, the second respondent-workman cannot have separate further

reference and he is bound by the prior settlements;

(ii) Having found that the charges against the workman are proved, particularly when the charges are very serious and grave in nature whether it is

open to the Labour Court to modify the punishment of dismissal into reinstatement as a new entrant merely on the basis of sympathetic

consideration u/s 11-A of the Act.

7. On the other hand, Mr. S. Ayyathurai, learned counsel for the 2nd respondent-workman has raised the following contentions:-

(i) Irrespective of earlier settlements, it is open to the individual workman to claim for reference and the said right cannot be taken away by any one

including the prior settlements;

(ii) Taking note of the object of Section 11-A of the Act and in appreciation of evidence, the Labour Court modified the punishment which cannot

be lightly interfered by this Court exercising extraordinary power under Article 226 of the Constitution of India;

(iii) Taking note of the evidence on record the Labour Court ought to have granted the relief as prayed for and set aside the order of dismissal

passed by the management.

8. I have carefully considered the rival submissions.

9. With regard to the contentions raised by Mr. Sanjay Mohan, first I shall consider his second contention, regarding the charges framed against

the workman and the ultimate order of the Labour Court. The charges against the 2nd respondent are as follows:-

(1) That on August 12, 1981 at about 7.55 A.M. you, led a group of workers numbering about 40, entered the Canteen main Stores Room and

picked a quarrel with the Canteen Contractor. Thereafter, you intimidated the Canteen Contractor and assaulted him, along with M/s M.

Ramamurthy, S/059, N. Ravichandran, S/088, M. Ganesan, S/099, S. Elangovan, S/120, K. Arumuga Perumal, S/123, R. Narayanamoorthy, S/355 and M. Palani, S/455.

(2) On the same day at about 8.10 A.M., you were noticed by Mr. V. Sarathi, Asst. Manager, Shop II inciting workmen at HGP Chassis

assembly Shop II to stop work. When Mr. Sarathi questioned you why you are instigating the workmen and that he may have to report the matter

to the higher authorities, you forcibly restrained him from proceeding to his Office and fisted him on the right and the left sides of his face

indiscriminately and as a result of which, he sustained bleeding injury just below his left eyes. Mr. Sarathi extricated himself from you and was

about to escape when you followed him with a shock absorber obviously to cause physical injury to him. He had to run for his safety. I have no

reason to disbelieve the above reports received against you. The facts reported against you, constitute serious misconduct amounting to instigating

the workmen to stop work, riotous and/or disorderly behaviour and acts subversive of discipline.

No doubt, the petitioner-management has not conducted any enquiry after affording opportunity to the workman. Though it is not stated in the

order of dismissal, learned counsel appearing for the petitioner informed before this Court that due to the situation prevailing then and taking note

of the fact that it was not conducive to conduct enquiry in the said circumstance after considering the past service records, the second respondent

herein was dismissed from service with immediate effect. The said order was passed on August 18, 1981. Before passing the said order, the

management has taken into consideration the three earlier punishments awarded to the workman.

10. Aggrieved by the said order of dismissal on failure of conciliation, after reference at the instance of the 2nd respondent herein, the first

respondent Labour Court, Coimbatore has adjudicated his claim in I.D. No. 194/86. Inasmuch as the management did not conduct any enquiry

before passing the order of dismissal, both the parties were permitted to lead evidence; accordingly on the side of the management, 4 witnesses

were examined as M.W.1 to M.W.4 and Exs.M-1 to M-32 were marked. Likewise, on the side of workman apart from examining himself as

W.W.1, he has examined two more witnesses as W. Ws. 2 and 3 and marked Exs.W-1 to W-24. The Labour Court after considering and

assessing the oral and documentary evidence let in by both sides, accepted the case of the management and found that the misconduct alleged

against the workman was satisfactorily proved. In this regard, it is worthwhile to refer the following conclusion of the Labour Court in para 13 of its

Judgment:-

* (vernacular matter omitted)

Again in para 14 it has been concluded as follows:-

* (vernacular matter omitted)

It is clear from the conclusion of the Labour Court that the misconduct alleged against the workman is serious and it has been amply proved by

acceptable evidence. Though the workman has filed separate writ petition challenging the said award, it was not highlighted how the said finding is

erroneous or not supported by evidence. After going through the materials placed by both sides, I am satisfied that the above conclusion of the

Labour Court is based on acceptable evidence and the same cannot be assailed.

11. It is seen that after holding such a finding, the Labour Court after referring to certain decisions, arrived at a conclusion that appropriate

punishment has to be imposed on sympathetic grounds. The conclusion of the Labour Court in this regard is as follows:-

*(vernacular matter omitted)

After holding so, the Labour Court has modified the punishment of dismissal into reinstatement as a new entrant without continuity of service and

backwages. Now I shall consider whether the Labour Court is justified in modifying the punishment, more particularly in the light of Section 11-A

of the Act. In order to appreciate the conclusion of the Labour Court, it is worthwhile to refer Section 11-A of the Act.

Powers of Labour Courts, Tribunals and National Tribunals to give appropriate relief in case of discharge or dismissal of workmen.

11-A. Where an industrial dispute relating to the discharge or dismissal of a workman has been referred to a Labour Court, Tribunal or National

Tribunal for adjudication and, in the course of the adjudication proceedings, the Labour Court, Tribunal or National Tribunal, as the case may be,

is satisfied that the order of discharge or dismissal was not justified, it may, by its award, set aside the order of discharge or dismissal and direct

reinstatement of the workman on such terms and conditions, if any, as it thinks fit, or give such other relief to the workman including the award of

any lesser punishment in lieu of discharge or dismissal as the case may require:

Provided that in any proceeding under this section the Labour Court, Tribunal or National Tribunal, as the case may be, shall rely only on the

materials on record and shall not take any fresh evidence in relation to the matter.

No doubt, after introduction of the above mentioned provision, namely, Section 11-A, it is open to the Labour Court/Tribunal on satisfaction to

modify the order of dismissal into a lesser punishment. However, it is settled law that the Labour Court has to act judiciously and not arbitrarily in

imposing such lesser punishment. I have already extracted the only reason which made the Labour Court to modify the punishment of dismissal into

reinstatement as a new entrant. In other words, according to the Labour Court, the 2nd respondent was awarded the lesser punishment on

sympathetic consideration in order to give him one more opportunity. Mr. Sanjay Mohan, while relying on a Division Bench decision of this Court

reported in Dharmapuri District Co-operative Sugar Mills Vs. The Presiding Officer, Labour Court, Vellore and another, contended that in the

light of the said decision, the approach and the ultimate conclusion of the Labour Court cannot be sustained. In that decision, Their Lordships have

made the following conclusion:-

...We are of the opinion that when the Court is faced with three charges, all of which have been proved by evidence adduced before the Labour

Court itself, it would be improper to have any misplaced sympathy in favour of the worker. The question of rehabilitation would only result in the

destruction of discipline and morale in the entire factory. Section 11-A of the Act was not certainly intended to cause such an embarrassment to

the management. In other words, we are of the opinion that the views expressed by the Labour Court in its concluding portion, in relation to the

punishment, can never be sustained as views which a reasonable person can

take. In other words, the views of the Labour Court, which we have already extracted in our judgment can only be characterised as ""perverse""...

In the case before the Division Bench, the observation of the Labour Court is as follows:-

... I he petitioner must be given a chance to improve his performance and turn a new leaf. The petitioner has been in wilderness from 1986 till

today i.e., for a period of about nine years. The denial of backwages for this period will be enough punishment..

After referring to the various decisions of the Apex Court and other High Courts, Their Lordships have rejected the conclusion of the Labour

Court in relation to punishment and accordingly set aside the order of the Labour Court in so far as the punishment portion is concerned. It is clear

that where the charges are grave in nature, the Labour Court cannot exercise its power u/s 11-A of the Act by imposing on a management a

workman whose presence is likely to affect the morale and discipline of the entire factory. Further, the said provision is not intended to embarrass

the management to such extent. It is clear from the judgment of the Criminal Court that after full trial, the charges under Sections 341 and 323,

I.P.C., against the 2nd respondent-workman were found proved. However, he was released u/s 4(1) of the Probation of Offenders" Act.

Accordingly the charge of assaulting one Sarathy, his Departmental Head and also the Canteen contractor was established not only before the

Labour Court, but also before the Criminal Court and the criminal case ended in conviction. When the charge, namely, assaulting his superior

Officer was proved, as rightly contended by the learned counsel for the petitioner, it would be improper to have any misplaced sympathy towards

a workman. If the charges are minor in nature, in order to give him a chance for correcting himself, it is open to the Labour Court to impose lesser

punishment. In such a circumstance, merely because the workman has put in several years of service, it is not open to the Labour Court to impose

lesser punishment. Various judicial decisions clearly give the impression that the Court should not entertain a misplaced sympathy towards a

workman and should not prejudice the issue from the angle of rehabilitation. The question of rehabilitation and reformation could arise in a case of

minor delinquency or misconduct. Where the charges are grave in nature, it is

not open to the Labour Court exercising power u/s 11-A of the Act

to interfere with the punishment imposed by the management. It is also clear that the Labour Court and the Tribunal cannot mechanically use the

words ""the punishment being disproportionate"" to the charges. Unless the Labour Court finds the punishment to be highly disproportionate to the charges, it should not interfere.

12. It is also useful to refer the decision of the Apex Court reported in New Shorrock Mills Vs. Maheshbhai T. Rao, in which Their Lordships of

the Supreme Court have made the following observation:-

It appears to us that the Labour Court completely misdirected itself in ordering the respondent's reinstatement with forty per cent back-wages.

The Labour Court was exercising jurisdiction u/s 78 of the Bombay Industrial Relations Act, 1946. It had the jurisdiction, inter alia, to decide the

disputes regarding the propriety and legality of an order passed by an employer acting or purporting to act under the Standing Orders. The Labour

Court, in the present case, having come to the conclusion that the finding of the departmental inquiry was legal and proper, respondent's order of

discharge was not by way of victimisation and that the respondent workman had seriously misbehaved and was thus guilty of misconduct, ought

not to have interfered with the punishment which was awarded, in the manner it did. This is not a case where the Court could come to the

conclusion that the punishment which was awarded was shockingly disproportionate to the employee's conduct and his past record. The Labour

Court completely overlooked the fact that even prior to the incident in question the respondent had misconducted himself on several occasions and

had been punished. According to the appellant, there were at least three other instances where the respondent had misconducted himself and that

he had failed to improve his conduct despite his assurances from time to time. Another aspect which was overlooked by the Labour Court was

that on the finding of the Inquiry Officer that the respondent had - misbehaved with his superior officer and was guilty of misconduct, the appellant

could have dismissed the respondent from service. The appellant chose not to do so. Instead it passed an order of discharging the respondent from

service. Lesser punishment having been given by the management itself there was, in our opinion, no justifiable reason for the Labour Court to have

set aside the punishment so awarded. We are unable to accept that the punishment imposed by the management was in any way disproportionate

to warrant interference by the Labour Court. The direction of the Labour Court ordering reinstatement of the respondent with forty per cent back-

wages was clearly unwarranted.

In the light of the said conclusion of Their Lordships it is clear that in the case on hand no justifiable reason was given by the Labour Court while

setting aside the punishment awarded by the management.

13. In the case of *Godrej and Boyce Manufacturing Company Limited v. Presiding Officer, Labour Court, Madras* and Anr. 1998 I LLJ 117

(Mad) I had an occasion to consider similar contentions. In that decision of mine, after referring to the various decisions of this Court as well as

Supreme Court, I held that Section 11-A of the Industrial Disputes Act, 1947 which confers power on the Industrial Tribunal or Labour Court to

substitute a lesser punishment in lieu of order of discharge or dismissal passed by the management cannot be considered as conferring an arbitrary

power. I also held that however, the said power has to be exercised judicially and the Industrial Tribunal or the Labour Court can interfere with

quantum of punishment only when it is satisfied that the punishment imposed by the management is highly disproportionate to the degree of guilt of

the workman concerned. It has also been held that they must give proper and acceptable reasons and the same are subject to judicial review by

this Court as well as the Apex Court. The Labour Court in the case on hand has proceeded mainly on the ground of sympathy for modifying the

dismissal into reinstatement as a new entrant. Further, it is also clear from the past service records of the 2nd respondent that even within two

months of his joining service as temporary employee, he resorted to stoppage of work in a concerted manner on August 29, 1980. Thereafter, he

was given a charge memo on September 1, 1980 for indulging in riotous and disorderly behaviour. No doubt on all these occasions, since he

expressed regret for his conduct and assured good behaviour, he was merely awarded the punishment of suspension without wages for a few days.

Again on November 19, 1980, he along with certain others, indulged in similar riotous and disorderly behaviour involving violence and he hit

another co-worker with a hose pipe. The said charge was found proved during

the enquiry and he was once again awarded a punishment of suspension without wages between the period November 20, 1980 and December 11, 1980. Again on June 29, 1981, the second respondent was guilty of further misconduct of leaving his place of work, going to another place of work and disturbing the workman at the workspot and also unauthorisedly driving a ""Hippo"" Tractor inside the shop floor and replying rudely to the supervisor when questioned. It is stated that since he assured future good behaviour, he was cautioned regarding the misconduct by Memo dated August 4, 1981. Inspire of all the above past service records, only on the ground of sympathy the Labour Court interfered with the punishment which cannot be sustained.

14. Mr. Ayyathurai by relying on a decision of the Apex Court reported in The Workmen of Firestone Tyre and Rubber Co. of India (Pvt.) Ltd.

Vs. The Management and Others, contended that after introduction of Section 11-A of the Act, it is open to the Labour Court to impose lesser

punishment in the circumstances of the case. There is no dispute that by virtue of Section 11-A the Labour Court has ample power to modify or

impose lesser punishment, however, as stated earlier, the order must be judicious and supported by acceptable reason/reasons,

15. Mr. Ayyathurai also relied on a Division Bench decision of this Court reported in The Management of Tafe Vs. Venkataraman and Others,

and contended that in exercise of powers u/s 11-A of the Act, award if any is passed by the Labour Court imposing lesser punishment, this Court

exercising jurisdiction under Article 226 of the Constitution of India should not undertake to re-examine the question of adequacy or inadequacy of

the materials and interfere in the order of punishment. No doubt, Their Lordships have concluded in the said decision in the following manner:-

The well accepted principle on the question of exercise of powers u/s 11-A of the Industrial Disputes Act, 1947, to evaluate the gravity of

misconduct for the purpose of the punishment to be imposed on a workman is, that once that power has been exercised, this Court under Article

226 of the Constitution of India, in the absence of any important legal principle, should not undertake to re- examine the question of adequacy or

inadequacy of the materials for interference by Labour Courts....

In our case, there is no need to re-assess the evidence. Admittedly, the charges

levelled against the 2nd respondent- workman were proved. I

have already extracted the nature and gravity of the charges. The said position has not been altered by the Labour Court. However, only on

sympathetic consideration and to rehabilitate the workman, it has modified the punishment of dismissal into reinstatement as a new entrant. Such

conclusion is undoubtedly a perverse finding and the said procedure has been deprecated in various decisions. This Court is justified in interfering

with the said award.

16. The next decision relied on by the learned counsel for the workman is in the case of Bharat Heavy Plates and Vessels Ltd. Vs.

Sreeramachandra Murthy and Another, . In the said case, the charge against the workman was that he committed adultery which took place

outside the premises. Taking note of the said aspect, Their Lordships of the Division Bench of Andhra Pradesh High Court modified the

punishment of dismissal into reinstatement without back wages. The factual position in our case is completely different. Further, it is also clear from

para 11 of the order that the past record has been clean and he did not involve in any misconduct. In other words, except the lone act of adultery

in that case, the workman therein was not having any bad past record. Accordingly, the said decision is justifiable and not helpful to the case of the

second respondent.

17. The next decision relied on by the learned counsel for the 2nd respondent is in the case of Jitendra Singh Rathor Vs. Shri Baidyanath Ayurved

Bhawan Ltd. and Another, . Citing the said decision it is contended that withholding the entire back-wages and other service benefits itself amounts

to penalty; accordingly no interference is called for. No doubt, in that case, Their Lordships have concluded thus:-

... In our opinion, the High Court was right in taking the view that when payment of back-wages either in full or in part is withheld, it amounts to

penalty....

The factual position in our case does not warrant any lesser punishment.

18. The next decision relied on by the learned counsel for workman is in the case of Palghat BPL and PSP Thozhilali Union Vs. BPL India Ltd.

and Another, . No doubt, in that case, some of the workmen have attacked the Officers when they were going to the factory due to failure on the

part of the management to accept their demand. By invoking Section 11-A, the Labour Court directed reinstatement with a cut of 75 per of back-

wages from the date of dismissal upto the date of award. In such circumstance, Their Lordships have upheld the discretion exercised by the

Labour Court which is proper and justified. It is clear that in that case, the incident took place outside the factory. In our case, everything including

the assault on the higher Officer took place inside the factory premises. In such circumstance and taking note of the past service records of the 2nd

respondent, I am of the view that there is no case for interference by the Labour Court. Accordingly, the said decision is also justifiable and not

helpful to the 2nd respondent.

19. Even though the learned counsel for the second respondent has contended that at the instigation of the management, some outsiders came and

attacked the workers and that was the provocation, in view of the categorical conclusion of the Labour Court as regards the charges made against

the workman, I am unable to accept the said contention. Even though no specific reason has been mentioned in the order of dismissal for not

conducting enquiry, the statement made by the learned counsel for the petitioner is acceptable. Accordingly, looking at any angle I am unable to

sustain the reason given by the Labour Court in modifying the punishment.

As observed by the Division Bench of this Court in (1997-II-LLJ-833) (cited supra), the Labour Court should not entertain a misplaced sympathy

towards a workman and should not prejudice the issue from the angle of rehabilitation and in the case of major delinquency or misconduct,

undoubtedly the question of rehabilitation and reformation could not arise. It is also clear that apart from the present charge, the second respondent

had suffered punishments on three occasions.

20. In the light of the above factual position as discussed as well as the law laid down in various decisions, I am of the view that the only reason

given by the Labour Court (on the ground of sympathy) in modifying the punishment of dismissal into reinstatement as a new entrant cannot be

sustained. The said Award of the Labour Court suffers error apparent on the face of the records. Further, it is settled law that if the finding of the

Labour Court is perverse and not based on any acceptable reason or material, this Court is justified in interfering with the said Award.

Accordingly, in this view of the matter while upholding the findings of the Labour Court on the charges, I set aside its order in so far as the

punishment portion is concerned. The Award of the Labour Court dated April 23, 1990 shall stand quashed and the order of the petitioner-

management shall stand confirmed. In other words, the non-employment of the second respondent is held to be justified. Net result, Writ Petition

No. 13626 of 1990 is allowed as stated above and Writ Petition No. 19531 of 1990 is dismissed. However, there will be no order as to costs in

both the writ petitions.