
(1994) 02 BOM CK 0029
In the Bombay High Court

Bombay Tyres International Ltd.	APPELLANT
Vs	
Maharashtra General Kamgar Union and Another	RESPONDENT

Date of Decision : 10-02-1994

Acts Referred:

Industrial Disputes Act, 1947 — Section 23, 24(2)

Citation : (1994) 68 FLR 799

Hon'ble Judges : Bhimrao N. Naik, J

Bench : Single Bench

Judgement

Bhimrao N. Naik, J.—Heard learned counsel for the parties. Rule. By consent of the parties, Rule made returnable forthwith. Respondent waive service.

2. Heard learned counsel for the parties in extenso. Respondent - Trade Union filed Complain (ULP) No. 1359 of 1993 alleging that the petitioner-company has engaged in or being engaging in unfair labour practices under Items 9 and 6 of Schedule IV and Items 1 and 6 of Schedule II of the Maharashtra Recognition of Trade Unions and Prevention of unfair Labour Practices Act, 1971 (hereinafter referred to as MRTU and PULP Act for the sake of brevity). This complaint was filed on 16th December, 1993. The main prayers in the complaint are as follows :-

(a) direct the Company to resume the Badli scheme and/or provide the work to badli employees as before discontinuation of the same;

(b) direct the company to pay full wages for the down time to the concerned employees;

(c) restrain the company from resorting to lock-out and/or temporary or permanent closure and from terminating the services of the employees, or suspension of work.

3. On the same day, i.e., on 16th December, 1993 an application for interim relief was filed and the prayers in the application for interim relief which is Exhibit U-2 are as follows :-

(a) by an order of interim injunction restrain the Respondent-Company and its agents, servants from threatening lock-out, suspension of work or temporary or permanent closure of declaring the same;

(b) grant ad-interim ex-parte injunction in terms of prayer (a) hereinabove.

4. The Industrial Court on 17th December, 1993 passed an order below Exhibit U-2 whereby petitioner-company was restrained by grant of ad-interim relief from declaring lock-out or temporary or permanent closure without following due process of law.

5. The company was also directed not to change working conditions of the workmen concerned by any artificial means during the notice period and this order was directed to remain in force till the next date.

6. Thereafter, it is the case of the Respondent-complainant that the petitioner-company, in utter disregard and violation of the order, discontinued the work with effect from 7.00 a.m. continued the work with effect from 7.00 a.m. on 26th December, 1993. The company put up two notices, one declaring suspension of work from 26th December, 1993 and another declaring intention of lock-out effective from declaring intention of lock-out effective from 11th January, 1994. the lock-out notice was given on 26th December, 1993 and it read as follows :-

"Without prejudice to the Management's contention that the discontinuance of manufacturing and other operations in its Factory and Central Office at Sewree, Bombay - 400 033. For factors clearly beyond the control of the Management and for reasons wholly attributable to the workmen as notified from time to time, is not a lock-out in the Legal sense , however, by way of abundant caution, in accordance with the provisions of Sub-section (2) of Section 24 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971, Bombay Tyres International Ltd., hereby gives notice to all concerned that it is our intention to discontinue manufacturing and other operations and in that sense to effect a Lock-out of all workmen of our Factory/ Central Office situated at Sewree, Bombay (with the exception of the workmen whose names are enumerated in Annexure "B" hereto) with effect from 7.00 a.m. on the 11th day of January, 1994, for the reasons explained in Annexure "A" attached hereto".

7. As a result of this lock-out notice the respondent-complainant filed Exhibit U-6 for an additional interim relief. This application was filed on 4th January, 1994. The prayers in this application are as follows :-

(a) direct the Company by an Interim Order not to give effect to or act upon the notices of lock-out dated 25-12-1993 to be effective from 11-1-1994.

(b) stay the effect and operation of the said notice.

(c) or alternatively direct the company to pay the wages/salary to all the workmen during the pendency of this complaint till restart or re-opening of the

establishment for normal work and/or grant any further or other reliefs as may be found necessary or appropriate in the nature and circumstances of the case.

8. The learned Member, Industrial Court. Bombay heard both these interim applications filed by the Respondent-complainant and recorded a finding that the complainant-union has made out a prima facie case and that the company has engaged in unfair Labour practices as alleged in the application and finding was also recorded that irreparable loss or damaged would be caused in the event if no interim relief as prayed for is granted since balance of convenience is in favour of respondent-union and as a consequence of this finding, he directed the petitioner-company to lift the lock-out within 48 hours from the date of the order. The petitioner-company was further directed to pay wages of workmen during the notice of lock-out within 15 days from the date of the order. The petitioner-company was further restrained from obstruction to workmen of the company and lastly the ex-parte order which was granted below Exhibit U-2 on 17th December, 1993 was confirmed till the decision of the complaint. This order was passed on 20th January, 1994.

9. It is this order dated 20th January, 1994 passed below Exhibit U-2 and Exhibit U-6 which is impugned in this petition under Article 226 of the constitution of India. Since I am disposing of this writ petition at the stage of admission, by making the Rule returnable forthwith, it will be necessary to state the case of the complainant-union and the case of the petitioner-company in detail.

10. The respondent-complainant-union filed complaint alleging the petitioner-company has engaged in unfair labour practices under Items 9 and 6 of Schedule IV and Items 1 and 6 of Schedule II of the MRTU and PULP Act and as referred to above, an application Exhibit U-2 was also filed on 16th December, 1993. It was alleged by the complainant-union that from the correspondence which ensued between the company and the union, it is clear and it is likely that the petitioner-company would declare lock-out or temporary or permanent closure without following due process of law and also change the working condition of the workmen concerned by any artificial means. Therefore, they prayed for grant of ad-interim relief restraining from declaring the lock-out, temporary or permanent closure without following due process of law and also direct the company not to change working condition of workmen by any artificial means during the notice period. Admittedly, the order which was passed on 17th December, 1993 was served upon the petitioner-company on 17th December, 1993 itself. The petitioner-company filed its written statement and reply to interim application bearing Exhibit C-2 on 6th January, 1994. Since notwithstanding this order, the notice of lock-out was given on 25th December, 1993, the respondent-complainant filed an application for additional relief on 6th January, 1994 alleging that the petitioner-company, by violating the order passed on 17th December, 1993, issued lock-out notice and the work of the company was suspended with effect from 7.00 a.m. on 26th December, 1993. The company published two notices on 25th December 1993. The company published two notices on 25th

December 1993 out of which one notice declaring suspension of work from 7.00 a.m. on 26th December, 1993 and another notice declaring intention of lock-out with effect from 11th January, 1994.

11. It is alleged by the complainant-union in the complaint that the company engaged in unfair labour practice from 4th October, 1993 for various reasons. Firstly, by discontinuing badli scheme. Secondly, it is alleged that sufficient raw material was not provided and as a result work was hampered. Thirdly, it is contended that tea was not provided at the working place.

12. On the other hand, it is contended by the company that there was sufficient raw material and there was go slow not he part of the workmen and as a result the company suffered losses, and therefore, there was not alternative for the company than to issue lock-out notice on 25th December 1993 since workmen adopted go slow, they were not giving normal production and this was involution of settlement dated 25th November, 1987.

13. As against this, it is the contention of the respondent-Complainant that there is breach of statement arrived at between the parties on 25th November, 1987.

14. It is not in dispute that the petitioner-company had started Badli scheme since from 1989 and had kept register for such Badli worker and there were more than 100 workmen working as Badli workers in the company. This scheme admittedly continued upto 4th October, 1993. It is the grievance of the respondent-complainant that the petitioner-company all of a sudden discontinued the Badli scheme by issuing notice to these Badli workmen without any cause or reason. It is further contended by the Union that some workers were removed and raw material received to the Unit at Bombay was diverted to Meerut Unit and the machineries were kept idle. Since some workers from the canteen were removed, it was not possible for the company to supply tea at the working place which resulted in big queue and it took more time and for this petitioner-company was responsible and also because of non-availability of raw material, the production could not be given as it was and hence the respondent-complainant alleged that unfair labour practice is committed by the petitioner company of the items referred to in the complaint.

15. On the other hand, the petitioner-company alleged that due to go slow policy of the workers, normal production could not be received. The company also contended that the workmen used to go to canteen and stay there for longer time and this resulted in reduction of production.

16. The learned Member of the Industrial Court went throughout he correspondence and the evidence on record and he found that the case of the respondent-complainant was just and probable and possible and took into consideration the evidence and circumstances on record and conduct of the Management after filing of the complaint and he held that it supported the contention of the respondent-complainant. He inter alia held that the petitioner-company had nowhere denied specifically that they have diverted the raw

material to another unit. He also recorded a finding that the company was required to keep some machineries idle due to shortage of workers. Thus, the learned Member held that the prima facie case made out by the respondent-complainant.

17. The learned counsel appearing for the petitioner-company assailed this finding and he contended that there is total non-application of mind and even the material which is placed on record is not taken into consideration. The learned Member has presumed so many things, in favour of the respondent-complainant which presumption, on the basis of record, is non-sustainable. The learned counsel contended that it was never the case of the company that due to shortage of raw material there was less production and it was all along the case of the petitioner-company that as a result of go-slow policy there was less production. It is wrong on the part of the learned Member to proceed on the basis that there was shortage of raw materials. What is brought to my notice is the specific contention raised by the company in the written statement and the reply to the interim applications that though sufficient raw material was available for normal production, unnecessarily importance is given by the learned Member to the shortage of raw material. The allegations in para 3.10 of the written statement were specifically brought to my notice wherein company contends that for the work scheduled as per production programme, sufficient raw material and other resources/inputs were provided, but the workmen by indulging in go-slow tactics drastically curtailed the output resulting in enormous loss to the company. It is also brought to my notice that in the reply the company specifically denied that they diverted the raw material to the sister concern of the company to Meerut. The company also relied upon letter dated January 3, 1994 and contended that there was adequate raw material for normal production and their inventory position and records pertaining to raw materials belies the allegation of the complainant. On the basis of this, it is argued that the learned Member, Industrial Court committed an error in prima facie holding that since there was shortage of raw materials, an error in holding that the company has not specifically denied the allegation of the complainant to the effect that the raw material was diverted to the sister unit.

18. Dr. Kulkarni, learned counsel appearing for the respondent-union justified this finding of the learned Member though he conceded that there are some mistakes in the Judgment. However, Dr. Kulkarni strongly relied upon letter dated 4th October, 1993 at Exhibit-C addressed by the Chief Executive of the petitioner-company to one Mr. P. V. Mahadik to the following effect :-

"During the last few months, we have not been able to operate the Plant at a satisfactory level due to raw material shortage, high demand recession in automobile and tyre industry, accumulation of stocks, liquidity of funds/severe financial constraints leading to out in ability to procure raw materials etc."

Dr. Kulkarni contends that this was the stand of the company on 4th October, 1993 and any subsequent improvement made in the reply to the interim

application or in the written statement will not carry any weight and there is sufficient material on record to show that there was shortage of raw materials and the contention of the company that they had enough raw materials for the purpose of normal production cannot be accepted on its face value and no importance should be attached at this interim stage because even otherwise finding recorded by the learned Member is justified on the basis of the material which is already on the record.

19. I find considerable force in the contention of Dr. Kulkarni. It is true that some mistakes are committed by the learned Member, Industrial Court. Though there are specific denial of the case made out by the respondent-complainant, learned Member proceeds on the basis that there are no denials but, nevertheless there is material on record to show that there were financial constraints and there was shortage of raw material and there was recession in automobile industry as a result of which the company could not produce its normal production.

20. It is also not in dispute that the Badli scheme was in operation since 1989 and it was continued till 4th October, 1993 and all of a sudden this scheme was discontinued and the notices were issued to such Badli workers and since there was shortage of employees in the canteen, there are longer queues in the canteen which resulted in waiting for longer time. And since there was shortage of employees in the canteen the system of serving tea on the working place was discontinued with resulted in spending more time for the said purpose.

21. What is alleged by Dr. Kulkarni is that on 17th December 1993 ad-interim relief was granted in favour of the complainant and the complaint was filed on the basis that the correspondence made very clearly showed that company will indulge in declaring a lock-out and the ad interim relief which was obtained on 17th December 1993, was served on the company on 17th December, 1993 and work was suspended from 26th December, 1993 to 10th January, 1994. Right or wrong, Mr. Kulkarni contends, the order dated 17th December, 1993 was violated by the petitioner-company because they refused to give work to the workmen. In addition, Dr. Kulkarni contended that what is permitted by the order dated 17th December, 1993 is declaring the lock-out or temporary or permanent closure by following due process of law. He contended that if one peruses the lock-out notice, the company makes it clear that notice dated 25th December, 1993 is not lock out in the legal sense. If that be so, he contends that the order dated 17th December, 1993 is clearly violated by the petitioner-company, and this conduct of the company is taken into consideration by the learned Member and, therefore, even this learned member and, therefore, even this Court should take this conduct of the company into consideration and refuse to interfere in this writ petition while exercising jurisdiction under Article 226 of the Constitution of India.

22. Now it is the contention of the company that while issuing this lock-out notice on 25th December, 1993 they have not committed any wrong, they have followed due process of law, they have given clear cut 14 days" notice therefore, lock-out notice is perfectly legal and valid and merely because of the recital in

the notice that this is not a lock-out in the legal sense does not mean that this is not notice of lock-out. For this proposition learned counsel appearing for the petition relies on the decision of the Supreme Court reported in Supreme Court Labour Judgment (Vol. I) p. 675 in the matter of Priya Laxmi Mills Ltd. v. Mazdoor Mahajan Manda, baroda, and contends that normally when there is demand by the company and that demand by the company is not accepted by the union, the company declares lock-out. In this case, there is not demand by the company and by; lacing reliance upon above ruling what is sought to be argued is that in the context of this decision, it is contended in the notice that the lock-out notice is not notice in the legal sense. However, at this prima facie stage, the view taken by the Court by taking into consideration the conduct of the petitioner-company in issuing lock-out notice notwithstanding the order dated 17th December, 1993 is possible view of the matter and the contention of the company on the basis of above said ruling will have to be examined in detail at the stage of final disposal of the complaint, but surely at this interlocutory stage it cannot be said that the view taken by the Learned Member, Industrial Court is not a possible view of the matter. Hence I am inclined to accept the contention of Dr. Kulkarni. Thus the prima facie finding of the learned member that there was no sufficient raw material and a company discontinued the Badli scheme and as a result of removal of badli workers from the canteen, the work was affected which is based on the material which is on record, as on today will have to be accepted as a prima facie finding.

23. The respondent-complainant alleged that the petitioner-company had engaged into unfair labour practices under Items 9 and 6 of Schedule 4 of the MRTU and PULP Act. According to Item 9 of Schedule IV, it is alleged by the complainant-Union that the petitioner company has failed to implement the settlement dated 25th November, 1987. I have perused the settlement dated 25th November, 1987 which is produced on record. It does appear from the settlement that it is the responsibility of the company to provide sufficient raw material and tea was required to be provided at the working place, but the petitioner-company discontinued to provide sufficient raw material and tea was required to be provided at the working place, but the petitioner-company discontinued to provide tea at the working place. Instead, the company removed the worker from the canteen which also hampered the working in canteen and as such workmen were required to stay for longer period in the canteen as there were longer queues. On the basis of this, the learned member, industrial Tribunal has arrived at a prima facie finding that the company failed to give effect to the settlement dated 25th November, 1987. It is true that the said settlement was to remain effective for a period of three years, but since there was no further statement, it is not in dispute the said settlement continued to be in force. It is contended by the respondent-complainant that under the settlement dated 25th November, 1987, the workers were entitled to down time payment and as per the settlement the down time was required to be recorded and paid for and under the settlement down time was not to be paid if the workers refused to

work on alternative machines or do piece work job or any miscellaneous work in the department provided by the Management. It is contended by Dr. Kulkarni that it is nobody's cases that the workmen refused to work on alternative machines or do piece work job or any miscellaneous work in the department provided by the management. It is contention of the respondent-complainant that there is refusal to give work to the workmen and this contention was rightly accepted by the learned Member of the Industrial Tribunal.

24. As against this, it is contended by the learned counsel appearing for the petitioner-company that Item 9 of Schedule IV is not attracted at all and it is wrong to record a finding that the company failed to implement settlement dated 25th November, 1987. For the reasons enumerated by me above, this contention of the company cannot be accepted and the learned Member has not committed any error in recording a finding the company has failed to implement the settlement dated 25th November, 1987.

25. It is further case of the respondent-complainant that the petitioner-company engaged in unfair labour practice under Item 6 of Schedule IV. As discussed by me above, Badli scheme was implemented in the year 1989 and the register was also maintained, there were about more than 100 Badli workers working in the company. Though it was tried to be argued by the company that the Badli scheme was on experimental basis for one year, notwithstanding this the scheme was in operation till 4th October, 1993 which is for about 3 to 4 years and when such Badli workers are working in the company for more than one year and when they are continued for more than three years, the question of getting statutes and privileges of permanency will definitely arise. Therefore, what is the effect of discontinuance of this Badli scheme will have to be taken into consideration and prima facie at an interim stage the view taken by the learned member, Industrial court that as a result of discontinuance of this Badli scheme the company has engaged in unfair labour practice under Item 6 of Schedule IV will have to be accepted. So, prima facie, Item 6 of Schedule IV is attracted and one cannot ignore working of the petitioner - company itself.

26. The next item of unfair labour practice alleged by the respondent - complainant which requires to be examined is Item 1 of Schedule II. The said item reads as follows :-

1. To interfere with, restrain or coerce employees in the exercise of their right to organise, form, join or assist a trade union and to engage in concerned activities for the purposes of collective bargaining or other mutual aid or protection, that is to say :-

(a) threatening employees with discharge or dismissal, if they join a union;

(b) threatening a lock-out or closure, if a union should be organised.

By placing reliance upon these two items, it was sought to be contended by the

petitioner was sought to be contended by the petitioner-company that it is not the case of the respondent-complainant that they threatened the employees with discharge or dismissal on the ground they joined a particular union. It was also contended that it is wrong to contend that the company threatened lock-out or closure if the union were to be organised. Since both these clauses were not attracted, the finding relating to commission of unfair labour practice under Item 1 of Schedule II is totally unjustified. For recording this finding on this item, the learned Member proceeded on the basis that the company discharged about 49 worker. The learned Member also proceeded on the basis that while discharging these workmen due process of law was not followed and this was all done with a view to pressurise workers. It must be stated at this stage that these 49 workers were discharged is not correct and Dr. Kulkarni fairly conceded that the assumption of the learned Member that 49 workers were discharged is not really correct. What has happened is that they were suspended. It is contended by Dr. Kulkarni that though 49 workers were suspended, no charge-sheet was submitted. They were not told that reasons as to why they were suspended and this act on the part of company is nothing but to interfere with, restrain or coerce employees in the exercise of their right to organise, form, join or assist a trade union and to engage in concerned activities for the purpose of collective bargaining or other mutual aid or protection. Items (a) and (b) of Schedule II, Item 2 are merely illustrative. Thus he contends that by suspending about 49 workers without even serving the charge-sheet, the petitioner-company has committed an unfair labour practice within the meaning of Item 2 and Schedule II.

27. It is the case of the petitioner-company that the workmen engaged in coercive action against the executive staff and an incident dated 26th December, 1993 was referred to by the company. However, the allegations relating to this incident were denied by the respondent-complainant. But, it does appear that some persons entered the factory premises without entry passes. There was some incident on 9th December, 1993 and possible view of the matter was taken by the learned Member of Industrial tribunal and, therefore, at this prima facie stage the finding recorded by the learned Member that the petitioner-company indulges in coercive action by bringing hire persons without any entry and/or pass while coming in and going out of the company which amounts to coercive action or creating of violence in the company premises and it is one of the unfair labour practices will have to be accepted and it is too difficult for this Court at this prima facie interim stage to interfere with this finding. Company relied upon the report of the Investigating Officer to falsify this contention of the complainant as an impartial view. I do not find any reference to this report in the judgment of the learned Member. However, careful reading of the report will show that statement made by Mr. Pereira on 10-2-1993 supports the case of complainant.

28. It is the case of the respondent-complainant that Item 6 of Schedule II viz. "Proposing or continuing a lock-out deemed to be illegal under this Act" is attracted and thus there is unfair labour practice in terms of Item 6 of Schedule

II also.

29. It is argued by the learned counsel appearing for the petitioner-company that the notice was issued on the notice board on 25th December, 1993, 14 days time was given and the lock-out came into effect on 11th January, 1994, which is legal and valid and the only order which was in operation was that the lock-out should not be declared without due lock-out should not be declared without due process of law and since the company has followed due process of law by giving 14 days" notice, no wrong is committed by the company. Thus it cannot be held that the lock-out which is declared is deemed to be illegal lock-out. However, the fact still remains that reference bearing No. (II) 79/88 is pending before the Industrial Court under clause (A) of Section 23 of the industrial Disputes Act and when such reference was pending before any Court, whether the lock-out can be declared or not and if such a lock-out or not. The learned Member has taken the view that since the reference is pending, the lock-out cannot be held to prime facie legal lock-out. What was contended by the learned counsel for the petitioner was that first of all what is the reference which is pending is not produced by the respondent-complainant and moreover what must be done in term of Section 24(2), Item (b) is that the matter which is pending in a reference must be a matter covered by the notice of lock-out and since this is not covered by the notice of lock-out, the learned Member committed an error in holding that Item 6 of Schedule II is attracted.

30. However, Dr. Kulkarni, learned counsel for respondent-complainant produced before me a reference which is pending and the reference is at the instance of the petitioner-company and he contended that the view taken by the learned Member not he basis of Section 23(a) and 23(b) of the Industrial Disputes act is the correct view. But, learned counsel appearing for the petitioner - company contended that in order to attract Item 6, any lock-out which is proposed or continuing a lock-out which is proposed or continuing a lock-out must be deemed to be illegal under this Act. So if the lock-out is not illegal under this Act, whether lock-out is legal or illegal under any other provisions of the Act is wholly irrelevant in order to attract Item 6 of Schedule II. He relied upon Section 24(2) (a) and 24(2)(b) and contended that the proceeding which is pending in reference is not in respect of any of the matters covered by the notice of lock-out. There is considerable force in the contention of the learned counsel appearing for the petitioner-company. It does appear that the directed himself in taking aid of Section 23(a) and 23(b) of Industrial Disputes Act, when he is required to consider the illegality of the lockout under the provisions of this Act, he cannot look into illegality of the lock-out under the provisions of any other Act. Therefore, he ought to have addressed himself whether pendency of any reference has got anything to do with respect to matters covered by notice of lock-out. He has not admittedly addressed himself on this aspect and, therefore, he has committed an error.

31. But, nevertheless, what is contended by Dr. Kulkarni is that at this prima

facie stage it cannot be conclusively held that matter pending in reference, may be at the instance of the petitioner-company, is not in respect of any other matters covered by the notice of lock-out. For this proposition he took me through the notice of lock-out and the annexures there in and he contended that prima facie there is enough material on record to show that even the notice of lock-out is also in respect of the matter pending in a reference or vice versa. However, at this prima facie state it is too difficult to record any finding in favour of the difficult to record any finding in favour of the respondent-complainant or against the petitioner. But notwithstanding this, there is enough material on record to show that prima facie, the petitioner-company has committed an unfair labour practice in terms of Schedule IV Items 6 and 9 and Schedule II, Item 1 and particularly the conduct of the petitioner-company in issuing lock-out notice latter passing an order on 17th December, 1993 was rightly taken into consideration by learned Member, industrial Tribunal and he has thus rightly come to the correct conclusion.

32. Then it is sought to be contended by the petitioner that in the main complaint the prayers are totally different and the relief granted is contrary to the prayers in the complaint. But what is brought to my notice is that, in the facts and circumstances of the case, since after passing the order on 17th December 1993, an application for further additional interim relief was made and in the facts and circumstances of the case it was perfectly justified. The learned judge rightly took into consideration the changed circumstances and granted the relief in favour of the respondent-union. Dr. Kulkarni rightly relied upon the decision of this Court in the matter of Universal Luggage Mfg. Co. Ltd. v. General Employees" union & Anr. reported in 1993 1 CLR 421 and also upon decision in the matter of S. G. Chemical and Dyes Trading Employees" Union v. S. G. Chemical and Dyes Trading Ltd. & Anr. reported in 1986 1 CLR 360.

33. As referred to by me above, this petition is against an interlocutory order and it is always desirable not to draw any final confusions at this stage and to see whether the observations made by the learned Member of the Industrial Court are, prima facie, sustainable or other wise and to find out whether the prima facie view taken by the learned Member of the Industrial Court is justified in the facts and circumstances of the case or not. I have not dealt with exhaustive submissions made by the learned counsel appearing on either side since I was dealing with the matter at the interlocutory state. However, I am satisfied on the basis of the material which is on the record that the view taken by the learned Member at this interlocutory stage is permanently-plausible view of the matter that is, prima facie, the learned Member is right in holding that the company has indulged into unfair labour practice under various items referred to in the complaint. On consideration of the material, I member of the Industrial Court is clearly quite plausible and possible conclusion and thus as held in case of S. G. Chemical and Dyes Trading Employee"s Union v. S. G. Chemical and Dyes Trading Ltd. (Supra) reported in 1986 1 CLR 360, this would be an unfair labour practice in any event under Item 9 of Schedule IV of the Act. In the result the

petition fails and the Rule is discharged with no order as to costs.

34. It is made clear that my observations made in this judgment are tentative in nature and the said observations will bind the Industrial Court of the final decision of the said complaint (ULP) No. 1359 of 1993. I direct the learned Member, Industrial Court to hear and dispose of the complaint as expeditiously as possible, in any event by the end of June 1994, peremptorily. Issuance of certified copy be expedited.