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**(1992) 07 MP CK 0026**

**In the Madhya Pradesh High Court**

**Case No : Mis. Petition No. 242 of 1987**

Hope Textiles Ltd. and Another

APPELLANT

Vs

State of Madhya Pradesh and Others

RESPONDENT

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**Date of Decision : 23-07-1992**

**Acts Referred:**

Industrial Disputes Act, 1947 — Section 2, 25M

**Citation :** (1992) 65 FLR 770 : (1993) 1 LLJ 603 : (1992) 2 MPJR 44

**Hon'ble Judges :** V.S. Kokje, J; R.K. Verma, J

**Bench :** Division Bench

**Advocate :** Chafekar and Bagdia, for the Appellant; T.N. Singh, for the Respondent

**Final Decision :** Dismissed

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## Judgement

V.S. Kokje, J.

This is a petition filed by and on behalf of M/s. Hope Textiles Ltd., a company registered under the Companies Act carrying on business of manufacturing textiles in a unit known by the name of the company. On June 6, 1986, a lay-off was declared in the unit of the petitioners' company. An application for permission to lay-off u/s 25M of the Industrial Disputes Act (for short "the Act"), was made by the company on June 7, 1986. The application was rejected by respondent No. 2 on June 25, 1986. The petitioner company filed certain objections to the aforesaid order dated June 25, 1986, and hearing was to be held on August 2, 1986, on the objections. On that date the petitioner company also moved an application for summoning witnesses to support its stand. This prayer was rejected and on August 2, 1986 itself permission to lay-off was refused. The petitioner company moved a fresh application for permission for lay-off and filed it on September 19, 1986. This application was fixed for hearing on October 17, 1986. On that date again an application for summoning of witnesses was moved on behalf of the petitioner. During the hearing it was brought to the notice of respondent No. 2 on behalf of the company that power connection of

the unit had also been disconnected from September 22, 1986, and that reason was also pressed into service. However, on October 24, 1986, respondent No. 2 again refused permission to lay-off. The petitioners have, therefore, filed this petition for quashing the order dated August 2, 1986, (Annexure P-14) and order dated 23rd/24th October, 1986, (Annexure P-17)

The petitioners contend that reasons shown by them for lay-off constituted good and sufficient reasons and were clearly within the ambit of Section 2(kkk) of the Act. They also contend that proper opportunity of hearing and leading evidence was not given to them. It was also contended that, in any case, because of disconnection of power, the permission to layoff should have been given. It is further contended that respondent No. 2 could not reject the application for permission to lay-off on the ground that the lay-off had already commenced and should have granted permission atleast from the date of the application. On the other hand, the respondents contended that conditions required for application of Section 25M and Section 2(kkk) of the Act were not fulfilled by the petitioners and, therefore, there was not a case for grant of permission to lay-off. The first impugned order dated August 2, 1986 was passed rejecting the permission to lay-off on the ground that the application does not come within the purview of lay-off because the reason for lay-off was non-receipt of sanction to the land development project of the company. The second impugned order, Annexure P-17, has also been passed on the same lines and it has been held in that order that the grounds shown for the lay-off by the petitioners did not entitle the petitioners to lay-off their workers. The grounds have been held not to be covered u/s 2(kkk) of the Act. The relevant portion of Section 2(kkk) of the Act containing the definition of lay-off reads as under:

"(kkk) "lay-off (with its grammatical variations and cognate expressions) means the failure, refusal or inability of an employer on account of shortage of coal, power or raw materials or the accumulation of stocks or the breakdown of machinery or natural calamity or of any other connected reasons to give employment to a workman whose name is borne on the muster rolls of his industrial establishment and who has not been retrenched."

The reasons given for lay-off in paragraph of the petition clearly do not come within the purview of Section 2(kkk) of the Act. The reasons could only be shortage of coal, power or raw materials or the accumulation of stock or the breakdown of machinery or natural calamity or other connected reasons. Financial stringency is not a cause for which a lay-off could be given. All the reasons shown by the petitioners are arising out of financial crisis which was being faced by the petitioners because the Government was not allowing it to develop its land and sell it. So far as the lay off is concerned, it is absolutely irrelevant whether the petitioners could raise funds by sale of land to run the unit. That is not a reason for which lay-off could be legally given. Respondent No. 2 has rightly held that financial stringency cannot be a reason for laying off the workmen. We, therefore, do not find any infirmity in the orders Annexures-14

and P-17, dated June 2, 1986, and October 23/24, 1986.

Moreover, the lay-off began on June 6, 1986, and the first application for permission was made on June 7, 1986. After this application was rejected, the next application also sought permission to lay-off from June 6, 1986, itself. Section 25M of the Act clearly provides that prior permission has to be taken to lay-off workers except in the case of emergency. Section 25M of the Act was, therefore, clearly contravened by the petitioners. There is no force in the argument that the application could be treated for the period from the date it was made. Section 25M of the Act requires prior permission and not prior application alone and admittedly the lay-off had started without any prior permission and was, therefore, clearly in contravention of Section 25M of the Act. The petition has, therefore, no force.

It is an admitted fact that from June 6, 1986, the mill has not been restarted as yet, the permission to lay-off is given when there is a temporary stoppage of work in the mill and there are chances of resumption of work within a reasonable time. The workers cannot be laid-off indefinitely without the reopening of the mill and resumption of work being in sight. In any case, when the mill has not yet started even after six years, it would be futile to consider a prayer for grant of permission to lay-off. For the aforesaid reasons the petition deserves to be dismissed and is hereby dismissed. There shall be no order as to costs. The security deposit, if any, be refunded to the petitioner after verification.