
(1995) 01 MAD CK 0079
In the Madras High Court
Case No : W.A. No. 1526 of 1994

Management of Sri Ivan Stedeford Hospital, Madras	APPELLANT
Vs	
V.S. Alan Raj and Another	RESPONDENT

Date of Decision : 13-01-1995

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1995) 2 LLJ 1206 : (1995) 2 MLJ 18

Hon'ble Judges : K.A. Swami, C.J.;Somasundaram, J

Bench : Division Bench

Judgement

K.A. Swami, C.J.—At the stage of admission the 1st respondent, who is the contesting respondent, has entered appearance. As the appeal lies in a narrow compass, the same is admitted and heard for final disposal.

2. This appeal is preferred against the order dated 15.11.1994 passed by the learned single Judge in W.M.P. No. 20604 of 1994 filed in W.P. No. 370 of 1990. The said W.P. No. 20604 of 1994 was filed for an order of temporary injunction restraining the appellant, who is the 2nd respondent in the writ petition, from transferring the 1st respondent herein from Ambattur, Madras to a place Kadayalamoodu, Kanyakumari District, pending disposal of the writ petition.

3. It is contended on behalf of the appellant that the subject matter of the Writ Petition No. 370 of 1990 relates to the validity of quantum of back wages awarded by the Labour Court in an award passed by it for reinstatement of the 1st respondent and also for payment of back wages. The appellant has not challenged the award in so far as it directs that the first respondent be reinstated. Pursuant to the award, the 1st respondent has been reinstated long back on 1.9.1989. It is only on 26.4.1994, he has come to be transferred from Ambattur, Madras to Kadayalamoodu, Kanyakumari District, as a Lab Technician. Therefore, the order of transfer is not passed close on the heels of the award passed by the Labour Court. Thus it is the contention that the order under appeal is not tenable in law inasmuch as the order of transfer has nothing to do with the

subject matter of the writ petition, that as the learned single Judge, even after coming to the conclusion that the relief sought for in the writ miscellaneous petition is not in any way connected with the subject-matter of the writ petition, has nevertheless exercised the jurisdiction under Art. 226 of the Constitution, on the ground that there is no limitation on the power of this Court under Art. 226 of the Constitution for passing an order of the nature in question.

4. We may point out here that the interim orders are passed in aid of the main relief sought for in the main writ petition. The interim order of temporary injunction in question falls outside the purview of the writ petition. It is not at all necessary to preserve and protect the main relief sought for in the writ petition. The jurisdiction under Art. 226 of the Constitution cannot be exercised for the purpose of granting an interim order which has no connection whatsoever with the relief sought for in the writ petition. The writ petition is not filed by the 1st respondent. It is filed by the appellant-management, challenging the award in so far as it relates to payment of back wages. It is not possible to hold that the order of transfer which is passed nearly four years after the reinstatement, can in any manner relate to the writ petition in question. In our view, this is sufficient to allow the writ appeal. In this connection we may also point out a decision of the Supreme Court in *Children Film Society of India v. Sridhar Sharma* 1993 II CLR 260, in which it has been held thus :

"It would appear that the attention of the Division Bench of the High Court which passed the impugned order was not drawn to the terms upon which the respondent's writ petition had been admitted. It had been admitted only upon the question of the subsistence allowance, the Court having said that no interference with regard to the suspension order was called for. No appeal was preferred against this order by the respondent nor was the scope of the rule expanded subsequently by the High Court. Since the rule was confined to the question of the subsistence allowance payable to the respondent, the question of the validity of the suspension order fell outside the purview of the writ petition and the suspension order ought not, therefore, to have been revoked."

The view, we have taken above, also receives support from the aforesaid observation of the Supreme Court.

5. However, it is strenuously contended by Mr. N. G. R. Prasad, learned counsel appearing for the 1st respondent, that as the 1st respondent is the low paid employee, and as the order of transfer has been passed during the pendency of the writ petition and as the 1st respondent is not liable to be transferred to another establishment which was not in existence when he entered the service in order to see that the 1st respondent is not harassed the learned single Judge has exercised the jurisdiction and passed the impugned order. Therefore it is not a matter in which the interference is warranted. We may point out here that any interim order must have connection to the main relief and it must be intended to safeguard and protect the main relief. When the interim order sought for has no connection with the main relief, we are of the view, no such interim order can be

passed even in a petition under Art. 226 of the Constitution of India. Therefore, we do not consider it necessary to refer to other contentions urged by Mr. N. G. R. Prasad, learned counsel appearing for the 1st respondent, as it is open to him to raise all those contentions in an appropriate proceeding.

6. For the reasons stated above, the writ appeal is allowed. The order dated 15.11.1994 passed by the learned single Judge in W.M.P. No. 20604 of 1994 filed in W.P. No. 370 of 1990 is set aside and W.M.P. No. 20604 of 1994 is dismissed. However, all the contentions of the first respondent are left open and liberty is reserved to him to agitate the matter in an appropriate proceeding. No costs.

7. Appeal allowed.