

A UNION OF INDIA AND ANR.

v.

M/S. MURUGAN TALKIES

DECEMBER 12, 1995

B [K. RAMASWAMY AND B.L. HANSARIA, JJ.]

Labour laws :

C *Cine Workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981 : Sections 24 and 25.*

Provident Fund—Share of contribution—Workmen and theater owners directed to deposit their share of contribution to provident fund from date of filing writ petitions in High Court—Provident Fund Act, 1952.

D The respondent challenged before the High Court the validity of Sections 24 and 25 of Cine Workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981 and the notification of Ministry of Labour, Government of India. The High Court while upholding validity of the Act had given relief to the respondent to pay its share of the contribution to the provident fund w.e.f the date of judgment. Aggrieved by the High
E Court's judgment the appellants preferred the present appeal.

On behalf of the respondent it was contended that some workmen had retired and it would be inequitable to deduct their share of contribution from their meagre wages with retrospective period.

F Disposing of the appeal, this Court

G HELD : 1.1. Since some of the workmen have already retired and deduction from date of enforcement of the notification would cause great hardship to some existing workmen, they cannot be made to bear the burden of their contribution with retrospective effect. [620-C]

H 1.2. As regards the liability of the owners of the theatres who approached the High Court, the operation of the notification was stated at their instance. The High Court was wholly unjustified in granting the same relief to these owners/licencees. After their writ petitions were dismissed, they were to bear the liability from the date on which the respective owners

of the theatres or the licencees, who had filed the writ petition in the High Court, are made liable to deposit their share of contribution towards provident fund account under the scheme. [620-E] A

District Exhibitors Association, Muzaffarnagar & Ors. v. Union of India & Ors., [1991] 3 SCC 119, relied on. B

2. The respondent and all the theatre owners are directed to deposit their share of contribution to the provident fund account from the respective date on which they filed the writ petition in the High Court. The appellants should intimate all of them the date on which they had filed the writ petitions and call upon them to pay their share of contribution. C

[620-G]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 9407 of 1995.

From the Judgment and order dated 24.11.94 of the Madras High Court in W.P. No. 12533/86. D

T.C. Sharma and C.V.S. Rao for the Appellants.

K.M. Vijayan and K.V. Mohan for the Respondents.

The following Order of the Court was delivered : E

This appeal by special leave arises from the judgment of the Division Bench of the Madras High Court in W.P. No. 12533/86 dated November 24, 1994. The respondent and others challenged the validity of Sections 24 and 25 of Cine Workers and Cinema Theatre Workers (Regulation of Employment) Act (50 of 1981)(for short 'the Act') and the notification of Government of India bearing No. 35016 issued by Ministry of Labour on April 30, 1986. The Division Bench while upholding the validity of the Act has given relief to the respondent to pay their share of the contribution w.e.f. the date of judgment dated November 24, 1994. F

The Union of India has filed this appeal. The controversy is no longer *res integra*. This Court in *District Exhibitors Association Muzffarnagar & Ors. v. Union of India & Ors.*, [1991] 3 SCC 119 upholds the validity of the provisions and the rules. However, it was held that the employer's contribution should be made effective from the date of the order setting aside the retrospective operation of the notification. It can thus be concluded that H

A from the date of the notification the owners of the Cinema Theatre are liable to contribute their share and also entitle to deduct from the wages of the workmen towards their share of provident fund and to have it credited to the account maintained by the appropriate authority in that behalf.

B It is contended for the respondents that the High Court has granted the relief taking into consideration that some workmen had retired and it would be inequitable to deduct from the meagre wages of existing employees with retrospective period. Therefore, the High Court directed deduction of their share from the date of the judgment. It is needless to mention that since some of the workmen have already retired and from some existing workmen deduction from date of enforcement of the notification would cause great hardship to them, so it cannot be made to bear the burden of their contribution with retrospective effect from the date of the notification towards their share of contribution.

D To that extent, the order of the High Court is upheld. As regards the liability of the owners of the theaters who approached the High Court, the operation of the notification had stayed at their instance. We find that High Court was wholly unjustified in granting the same relief to these owners/licencees. After their writ petitions were dismissed, they were to bear the liability from the date of the enforcement for the notification as held by this Court. It is, therefore, necessary that from the date on which the respective owners of the theaters or the licencees, who had filed the writ petition in the High Court, are liable to deposit their share of contribution towards provident fund account under the scheme.

F We are issuing the order under Article 142 of the Constitution. The order of the High Court to that extent is set aside. The respondent and all the theaters owners are directed to deposit their share of contribution to the provident fund account from the respective dates on which they filed the writ petitions in the High Court. The appellants should intimate all of them the date on which they had filed the writ petitions and call upon them to pay their share of contribution.

The appeal is accordingly allowed to above extent. No costs.