

The Hindu, Chennai, 08 Nov 2007

Memorandum submitted to Chief Justice

"Recent Supreme Court verdicts militate against interests of working class"

CHENNAI The Labour Law Practitioners' Association has expressed concern at the recent trend of Supreme Court decisions going against the interests of the working class. It said a reversal of the trend was in the interest of the people as well as the apex court.

In a memorandum submitted to the Chief Justice of India, Justice K.G. Balakrishnan, who was in Chennai last week, the association listed several judgments and said they had "emboldened employers and strengthened the coffers of private entrepreneurs, leaving working people in a state of distress."

The memorandum, signed by the association president, N.G.R. Prasad, said: "It is unfortunate that recently the Supreme Court has directed the formation of a larger Bench to reconsider the famous Bangalore Water Supply Board case rendered in 1978, which every right-thinking citizen thought had settled what is an 'industry' under the Industrial Disputes Act."

But now, the court had "exhibited undue anxiety for the employers," and had stated

that over-emphasis on the right of the workers and the curtailment of the rights of the employers to organise their business had resulted in large industrial claims, it said. "These observations of the Supreme Court had a debilitating effect on the minds of the workers. These observations are not in tune with the Constitution, but in tune with the economic policy of Liberalisation, Privatisation and Globalisation, shortly known as LPG."

Pointing out that the order did not refer to constitutional promises, Mr. Prasad said: "That it is not the Preamble and the Directive Principles of State Policy, which is their goal, but the economic policies of LPG that matters, is clear from the other recent judgments of the Supreme Court."

While the earlier orders of the Supreme Court had stated in "unmistakable terms" that contract labour was an exploitative system and should be put an end to, now the court quashed a 1976 notification abolishing contract labour. The court has said that "employees will have no right to automatic absorption, but will have to stand in the queue for fresh employment along with others, except that they

may be entitled to some preference in the matter of direct employment. But there is no guarantee of employment on abolition. They would lose even the little employment that they had, before contract labour was abolished."

'Judicial retreat'

A further "judicial retreat" had come in the form of Umadevi's case, where the Supreme Court held that if a person had not been recruited by following the rules relating to normal recruitment, then he would not be entitled to any regularisation, no matter how many years he had worked or even if he had worked on low wages. "Therefore the Supreme Court puts a premium on the employer who had employed a person without following the recruitment process for years," Mr. Prasad said in the memorandum.

Section 11-A of the ID Act, which empowered tribunals to give relief to workers, had been "judicially repealed," he said, adding: "Now, the Supreme Court has held that even if a dismissal is not justified, the employee cannot claim back wages. Even in the matter of illegal retrenchment, the Supreme Court had made it clear that reinstatement

is not the normal rule as held earlier. Now the question of a poor worker, who had been dismissed, getting relief in courts has become a little too remote.

"The working class feels totally disarmed in today's world of Liberalisation, where they are exposed to long hours, low wages and insecurity of employment. It is at this hour, the Supreme Court is expected to give a helping hand to the working people. Far from it, they are emphasising the rights of employers against whom employees are expected to be protected," the memorandum said.

"With growing liberalisation and privatisation and the system becoming more exploitative, the people tend to strike. Even this minimal democratic expression has been sought to be put an end to by the Supreme Court in T.K. Rengarajan case, where nearly 2.5 lakh employees were dismissed without inquiry when their existing benefits were sought to be taken away by holding that employees have no right to strike even if it is justified. This reminds us all of Oliver Twist being turned out of Poor Law home for asking for more," it added.