

The court further held that in a society where there is large scale unemployment and number of qualified persons eagerly waiting for employment in government departments or in public sector undertakings, strikes cannot be justified on any equitable ground. In the prevailing situation apart from being conscious of rights, there has to be full awareness of duties, responsibilities and effective methods for discharging the same. For redressing their grievances, instead of going on strike, if employees were to do some more work honestly, diligently and efficiently, such gesture would not only be appreciated by the authority but by the people at large. The reason being, in a democracy even though they are government employees, they are part and parcel of the governing body and owe duty to the society.

Out of 14, 135 employees and teachers, the court ordered the reinstatement of 8063 on their tendering unconditional apology for resorting to strike and also an undertaking to abide by rule 22 of conduct rules in future. Remaining 6072 employees and teachers could not be reinstated. They were as follows:

(a) government servants arrested.	2,211
(b) secretariat staff for certain specified reasons.	2,215
(c) officers holding higher position.	534
(d) government servants (other than the secretariat staff) involved in offences under section 5 or section 5 read with section 4 of tesma	1,112
<i>Total number of person who could claim a right to be reinstated</i>	<i>6,072</i>

The court said:

"finally, it is made clear the employees who are re-instated in service would take care in future in maintaining discipline as there is no question of having any fundamental, legal or equitable right to go on strike. The employees have to adopt other alternative methods for redressal of their grievances. For those employees who are not reinstated in service on the ground that FIRs are lodged against them or after holding any departmental enquiry penalty is imposed^ it would be open to them to challenge the same before the administrative tribunal and the tribunal would pass appropriate order including interim order within a period of two weeks from the date of filing of such application before it. It is unfortunate that the concerned authorities are not making the administrative tribunals under the administrative tribunal, act, 1985, functional and effective by appointing men of caliber. It is for the high court to see that if the administrative tribunals are not functioning, justice should not be denied to the affected persons. In case, if the administrative tribunal is not functioning, it would be open to the employees to approach the high court."

## **B.r. Singh verses union of india**

*(the right to strike is not a fundamental right.)*

### **facts**

Workers, without any oblique motive, resorted to strike to press long outstanding demands for revision of wages, regularization and housing facilities shortly before scheduled visit of the president and foreign dignitaries to the trade fair authority of india (tfai). Management worried and terminated services of large number of workmen and denying reinstatement to one of the suspended workmen.

### **Decision of the supreme court**

In the circumstances, keeping in view the interest of the employer-institution as well as economic hardship of the labour the supreme court, instead of determining the faults of the parties, proceeded to resolve the crisis. The court directed that the terminated workmen and suspended workmen be reinstated. Termination of services of union representatives without enquiry held, not warranted by the circumstances. Hence termination orders were quashed tfa1 does not fall within the expression 'public utility service'.

The court further held that right to strike though not a fundamental of grievances of workers. But the right to strike is not absolute and restrictions have been placed on it under sections 10(3), 10-a (4-a), 22 and 23 of the id act.

The court further held that the right to form associations or unions is a fundamental right under article 19(l)(c) of the constitution. Section 8 of the trade union act provides for registration of a trade union if all the requirements of the said enactment are fulfilled. The right to form associations and unions is obviously for voicing the demands of and grievances of labour. Trade unionists act as mouthpieces of labour. The strength of a trade union depends on its membership. Therefore, trade unions with sufficient membership strength are able to bargain more effectively with managements. This bargaining power would be considerably reduced if it is not permitted to demonstrate. Strike in a given situation is only a form of demonstrations. There are different modes of demonstration, e.g., go-slow, sit-in, work-to-rule, absenteeism etc., and strike is one such mode of demonstration by workers for their rights. The right to demonstrate and, therefore the right to strike is an important weapon in the armoury of the workers. This right has been recognised by almost all democratic countries. Though the right to strike is not a fundamental right, it is recognised as a mode of redress for resolving the grievances of workers. But the right to strike is not