
(1957) 09 MAD CK 0045
In the Madras High Court

Bombay Prakash Bhavan

APPELLANT

Vs

P.K. Narayanan, Cleaner, by Madras City Hotel Workers
Association and Another

RESPONDENT

Date of Decision : 10-09-1957

Acts Referred:

Industrial Disputes (Appellate Tribunal) Act, 1950 — Section 23

Citation : (1957) 70 LW 1001 : (1957) 2 MLJ 619

Hon'ble Judges : Rajagopala Ayyangar, J

Bench : Single Bench

Judgement

Rajagopala Ayyangar, J.—The legality of an order passed by the Central Industrial Tribunal on an application u/s 23 of the Industrial Disputes (Appellate Tribunal) Act, 1950, is the subject-matter of this petition for the issue of writ of certiorari.

2. The petitioner here is the management of a hotel in Madras. The first respondent was a cleaner employed in this establishment. There had been some disputes between the workmen and the management previous to the incidents which led to this application u/s 23 and they were pending before the Labour Appellate Tribunal. During the pendency of this dispute, the management found that the workman, the first respondent here, was guilty of an act of misconduct. He was given notice of the details of this misconduct charged against him on 29th July, 1955 and was placed under suspension pending the enquiry into this charge. The enquiry was actually held on 2nd August, 1955. The result of the enquiry was that the management held that the worker was guilty of the misconduct charged. Thereupon they endorsed on the notes of the enquiry:

It is a clear case of misconduct and permission for dismissal from the Tribunal has to be sought,

and in the order communicated to the worker on 3rd August, 1955, after setting out the misconduct and the guilt which they said had been established, they continued:

We have, therefore, decided to dismiss you from service but since proceedings are pending before the Labour Appellate Tribunal of India, we are seeking the necessary permission for the same.

3. It appears to be clearly proved from the documents as well as the pleadings before the Industrial Tribunal that the management orally informed the worker that he would be kept under suspension and would not be paid his wages till the disposal of the matter by the Labour Appellate Tribunal. The management thereafter filed an application seeking permission from the Tribunal for the dismissal of the worker u/s 22 of the Industrial Disputes (Appellate Tribunal) Act, 1950. The worker in his turn filed an application u/s 23 charging the management with a violation of the terms u/s 22. Both these applications were transferred by the Labour Appellate Tribunal to the Central Industrial Tribunal which disposed of these applications.

4. The application of the management u/s 22 was stated to have become infructuous and it was, therefore, dismissed or treated as lapsed. In the application of the worker u/s 23, the Tribunal held that the management were no doubt justified in terminating his services, but that they had unlawfully awarded the punishment of suspension from service for the period from 3rd August, 1955, to the date on which the Tribunal passed its order, the illegality consisting in its being in contravention of Section 22 of the Industrial Disputes (Appellate Tribunal) Act. On this view, it treated the workman as having been discharged and granted the latter compensation in the shape of some back-wages. It is the legality of this order of the Tribunal that is challenged in this petition by the management.

5. It will be seen that the gravamen of the charge against the management on the basis of which the Tribunal has held that the management had contravened Section 22 was that they had inflicted the punishment of suspension on the worker during the pendency of the Industrial dispute without the permission of the Tribunal u/s 22. In saying so, the Tribunal was clearly in error. The Supreme Court has laid down in *Lakshmi Devi Sugar Mills v. Ram Sarup* (1957) S.C.J. 46 that the suspension of a workman pending enquiry into his conduct or pending application to the Tribunal to terminate his services would not be a punishment within Section 22 of the Industrial Disputes Act. If this were the law and the proper construction of Section 22, the Tribunal was clearly in error in holding that the management had inflicted a punishment on the worker in contravention of Section 22.

6. The order of the Tribunal cannot, therefore, stand and is hereby set aside and the rule is made absolute. There will be no order as to costs.