

(1969) 02 AP CK 0001
In the Andhra Pradesh High Court

Dawood Khan

APPELLANT

Vs

Labour Court and Another

RESPONDENT

Date of Decision : 04-02-1969

Acts Referred:

Industrial Disputes Act, 1947 — Section 33C

Citation : (1969) 1 APLJ 317 : (1969) 2 LLJ 611

Hon'ble Judges : Chinnappa Reddi, J

Bench : Single Bench

Judgement

Chinnappa Reddi, J.—The petitioner the proprietor of Dawood Watch Company, Hyderabad. Respondent 2, an employee of his shop, filed an application u/s 33C(2) of the Industrial Disputes Act, 1947, before the presiding officer of the labour court, Hyderabad, for payment of wages from 12 March 1963 to 12 May 1965, and for payment of gratuity. The petitioner filed his objection stating that the presiding officer of the labour court had no jurisdiction to entertain the claim and that the petition was also barred because of an earlier petition filed before the Payment of Wages Authority which had been dismissed by that authority. The application was adjourned from time to time and was posted to 6 April 1967, for enquiry. Meanwhile the petitioner had gone abroad and his son who had been instructed by the petitioner to attend the labour court went to the labour court on 6 April 1967, but he was a few minutes late with the result that the presiding officer, labour court passed an order in the following terms:

Respondent called--Absent--Set exparte--Petitioner's representative present--
Petition allowed as prayed for with costs.

On the same day, the petitioner's son requited the publishing officer to set as the ex parte order but the request was not granted on the ground that the petitioner's son had no locus standi to maintain such art. application. Thereafter, the petitioner himself, having returned from abroad, has filed the present application for of a writ- to quash the order of that Court.

2. Sri. Narayana Patil, the learned Counsel for t-3 petitioner, urges that the presiding officer, labour court, acted illegally and without jurisdiction in allowing the petition on the sole ground that the respondent (petitioner herein) was absent. Rule 24 of the Andhra Pradesh industrial Disputes Rules, 1958, enables the labour court to proceed as if a party has duly attended or has been represented even if such party absent and if sufficient cause is not shown for his absence. This merely enables the labour court to proceed as if the party is present but this does not enable the labour court either to do away with the enquiry or to straightaway pass an award without giving a finding on the merits of the dispute before him. The absence of a party does not entail the consequence that an award will, straightaway made against him. It is still the duty of the presiding officer of the labour court to go into the merits of the dispute and give such findings as he can on the material placed before him. In the present case, the labour court has passed an award merely because the petitioner was absent. He did not address himself to the merits of the case at all, whether the respondent has established the claim. The writ petition is, therefore, allowed and the order of the labour court dated 6 April 1967, is quashed and the presiding officer, labour court is directed to hold a fresh enquiry into the matter after giving notice to both parties. There will be no order as to costs. The amount deposited by the petitioner with the Payment of Wages Authority in pursuance of an interim order of this Court may be withdrawn by the petitioner.