
(1989) 07 AP CK 0025

In the Andhra Pradesh High Court

Case No : Writ Petition No. 5873 of 1982

D.B.R. Mills and Another

APPELLANT

Vs

Commissioner of Labour and Others

RESPONDENT

Date of Decision : 17-07-1989

Acts Referred:

Industrial Disputes Act, 1947 — Section 25M

Citation : (1995) 3 LLJ 833

Hon'ble Judges : K. Ramaswamy, J

Bench : Single Bench

Advocate : B.K. Seshu, for the Appellant; Government Pleader for Labour for respondent No.1 and K.D. Devaraj for respondent No. 2 Union of India, for the Respondent

Final Decision : Dismissed

Judgement

K. Ramaswamy, J.—The petitioner sought for permission to lay-off from the first respondent. The first respondent, in his order, dated 23rd August, 1982, refused to grant permission to lay-off the workmen with retrospective effect as requested for. As against this order, the writ petition has been filed.

2. The first contention raised by learned counsel for the petitioner is that an appeal is pending in the Supreme Court, and, therefore, the matter may be kept pending. The petitioner is unable to place before me as to under what circumstances the appeal was filed in the Supreme Court and what is the point involved in that case. In these circumstances, I cannot issue a direction to keep the matter in abeyance pending decision of the Supreme Court. As regards the merits, admittedly the petitioner has invoked the jurisdiction of the first respondent under Sub-section (4) of Section 25-M of the Industrial Disputes Act, 1947 (for short "the Act"), which reads thus:

"Where an application for permission has been made under Sub-section (1) or Sub-section (2), and the authority to whom the application is made does not

communicate the permission or the refusal to grant the permission to the employer within a period of two months from the date on which the application is made, the permission applied for shall be deemed to have been granted on the expiration of the said period of two months".

3. In this case, admittedly, the adjudication on the application was communicated. As a result, Sub-section (4) of Section 25-M of the Act does not apply. The authorities have considered the matter on merits and passed the order on 23rd August, 1982. It is found from the record that there is no power in the authority u/s 25-M of the Act to accord post-approval to the lay-off already declared. I find force in the contention. Once the lay-off is to be made, prior permission for the lay-off should be obtained from the competent authority, viz., the first respondent. In this case, the approval was sought for, and the Tribunal rightly refused to grant the permission to lay off the workmen, with retrospective effect. Under those circumstances, I do not find any justification warranting interference.

4. The writ petition is accordingly dismissed: No costs. Advocate's fee Rs. 350/-.