

(1997) 08 MAD CK 0112

In the Madras High Court

Case No : W.A. No. 609 of 1996 and C.M.P. No. 15924 of 1996

District Livestock Farm, Abishekapatti

APPELLANT

Vs

V. Palavesam and Another

RESPONDENT

Date of Decision : 20-08-1997

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1997) 2 CTC 473 : (1998) 1 MLJ 259

Hon'ble Judges : K.M. Natarajan, J;J. Kanakaraj, J

Bench : Division Bench

Advocate : R. Thirugnanasambantham, for the Appellant; D. Saravanan, for the Respondent

Judgement

Kanakaraj, J.—The appellant filed W.P. No. 15752 of 1995 for the issue of a writ of certiorari to quash the award dated 20.4.1992 made in I.D. No. 70 of 1987 on the file of the second respondent herein. Before the second respondent an issue was raised whether the non-employment of the first respondent was justified or not. In the event of the non-employment being not justified, the Labour Court was called upon to find out the relief to be given to the first respondent. Before the Labour Court an issue raised whether the appellant was an industry and whether the first respondent can at all agitate the matter as an industrial dispute before the second respondent. The Labour Court came to the conclusion on the basis of the definition of the word "industry", and on the basis of the evidence that the appellant was in fact an industry within the meaning of the Industrial Disputes Act. The Labour Court has found that several saleable articles were being manufactured in the appellant institution and several persons were employed in the manufacture of such articles. The first respondent was a daily worker in the said appellant institution. It is not disputed that the first respondent was working on daily wages for nearly 11 years prior to the dispute. We do not propose to go into the reasons for the dismissal of the first respondent by the appellant in a domestic enquiry. In fact, the order of termination is said to have been made orally by the appellant. The Labour Court finds that the

principles of natural justice have been violated and no enquiry had been conducted and consequently, the non-employment of the first respondent was unjustified. Consequently, the Labour Court directed reinstatement of the first respondent with back wages and other attendant benefits. While challenging the order of the Labour Court, the appellant was faced with a preliminary objection as to the maintainability of the writ petition. This because, the first respondent, though a daily worker, was working in a Government institution, and therefore, the contention was that the Tamil Nadu Administrative Tribunal alone would have jurisdiction. The learned Judge purporting to follow a judgment in a batch of case in W.P. No. 9064 of 1995 etc., was of the opinion that the writ petition was not maintainable. We do not think that this view of the learned single Judge is correct. This is because, what was challenged in the writ petition relates only to the award of the Labour Court. The award of the Labour Court is certainly amenable to the jurisdiction of this Court under Art. 226 of the Constitution of India. We, therefore, set aside the finding of the learned judge that the writ petition is not maintainable.

2. However, on facts, we are satisfied that the second respondent Labour Court was perfectly justified in coming to the conclusion that the appellant was in fact an industry within the meaning of the Industrial Disputes Act, and inasmuch as the first respondent was dismissed from service without following the principles of natural justice, the non-employment was rightly held to be unjustified. Consequently, the direction to reinstate the first respondent is also absolutely correct and does not call for interference.

3. In this view of the matter, the writ appeal is dismissed. There will, however, be no order as to costs. Consequently, C.M.P. No. 15914 of 1996 is dismissed.

4. Appeal dismissed.