

(2002) 05 KAR CK 0034
In the Karnataka High Court
Case No : Writ Appeal No. 1663 of 1999

Divisional Controller, Karnataka State Road Transport Corporation

APPELLANT

Vs

S.B. Balli and Another

RESPONDENT

Date of Decision : 30-05-2002

Acts Referred:

Industrial Disputes Act, 1947 — Section 10 (4A)

Citation : (2002) 95 FLR 633 : (2002) 6 KarLJ 150 : (2002) 3 KCCR 1792 : (2002) 3 LLJ 778

Hon'ble Judges : Kumar Rajaratnam, J;K. Bhakthavatsala, J

Bench : Division Bench

Advocate : Puttige R. Ramesh, for the Appellant; M.L.N. Reddy, Amicus Curiae, for the Respondent

Final Decision : Allowed

Judgement

1. This is an appeal preferred by the management. Respondent-workman was served but remained unrepresented. Mr. M.L.N. Reddy was requested to assist the Court as Amicus Curiae for the respondents.

2. The management has preferred this writ appeal aggrieved by the order of the learned Single Judge. The respondent claimed to be an employee as conductor in the Management Corporation and claimed to be appointed in the year 1964 and he was removed from the service as unsuitable on 11-8-1969. The respondent-workman did not raise his little finger till he ultimately took advantage of Section 10(4-A) of the Industrial Disputes Act and raised a dispute on 15-9-1988 after a lapse of nearly 20 years. When the matter went before the Labour Court, the management led evidence and took a stand that the respondent was never appointed by the Corporation and there was no master and servant relationship.

3. The Labour Court on a preliminary issue held that there was no master and servant relationship on the basis of a Xerox copy of the appointment order and badge. The Labour Court ultimately allowed the dispute by an award directing

that the respondent be reinstated without back wages, however, with continuity of service. The respondent was however entitled to 50% back wages from the date of claim petition. Aggrieved by this, the management preferred the writ petition. The writ petition was dismissed at the stage of preliminary hearing. Aggrieved by the order of the learned Single Judge the management is before us.

4. Mr. Puttige R. Ramesh, learned Counsel for the management/appellant submitted that the dispute itself does not exist. The dismissal was on 11-8-1969 and the dispute was raised on 15-9-1988, after a lapse of nearly 20 years. He relied on a judgment of the Supreme Court in the case of *The Nedungadi Bank Ltd. Vs. K.P. Madhavankutty and Others*, The Supreme Court held that when a dispute is raised after a lapse of 7 years, the dispute itself does not exist in the eye of law. The Supreme Court further held that although no time-limit can be fixed, the dispute is expected to be raised as expeditiously as possible and if the delay is satisfactorily explained, it would be open to the Labour Court to accept the dispute and to adjudicate the matter on merits. In this case no effort has been made by the respondent-workman to satisfy the delay for 20 years in raising the dispute.

5. Mr. M.L.N. Reddy, learned Amicus Curiae submitted that the workman had given evidence and had filed documents to show that he was an employee of the appellant-Corporation and therefore, some relief ought to be granted. We are unable to accede to such a request for the simple reason that raising a dispute after a lapse of 20 years without explanation of delay before the Labour Court would not permit the Labour Court to grant any relief. Although no time-limit is fixed, this does not give the workman a right to raise the dispute at any point of time. The reason why a dispute should be raised expeditiously is for the management to be given an opportunity in placing the records of the workman and to establish their case from their point of view. The workman has kept quiet for 20 years and had not even corresponded with the management to show that the delay can be condoned. All of a sudden, after 20 years, the dispute is sought to be raised.

6. The delay in raising the dispute was an issue raised by the management and even the Labour Court conceded that the workman was also negligent to some extent.

7. In the facts and circumstances of the case, the judgment in *Nedungadi Bank Limited's* case, *supra*, squarely applies to this case. Accordingly, we have no option except to set aside the impugned orders. The appeal is accordingly allowed.

8. We place on record the assistance rendered by Mr. M.L.N. Reddy as Amicus Curiae.