

(2000) 10 MAD CK 0029

In the Madras High Court

Case No : Writ Petition No. 7838 of 1993

Divisional Engineer (Highways) Transport and Machinery
Division and Another

APPELLANT

Vs

Secretary, Tamil Nadu Highways and Rural Welfare
Department and Another

RESPONDENT

Date of Decision : 13-10-2000

Acts Referred:

Industrial Disputes Act, 1947 — Section 9A

Citation : (2001) 1 LLJ 950

Hon'ble Judges : V.S. Sirpurkar, J

Bench : Single Bench

Advocate : M. Rathinam, for the Appellant;

Final Decision : Dismissed

Judgement

V.S. Sirpurkar, J.—Being aggrieved by an award passed, the petitioners herein challenged the same in this petition. The first petitioner is the

Divisional Engineer (Highways), Transport and Machinery Division while the second petitioner is the Secretary to Government, Highways and

Rural Works Department, Fort St. George, Madras. The first respondent-Union raised an industrial dispute, which was referred to the Labour

Court, Madras. The following facts will highlight the grievance.

2. The members of the union on behalf of which the dispute was raised are the daily wage employees and can be described as N.M.R. employees.

They are regularly working. They claimed before the Labour Court that their working hours previously were 8.00 a.m. to 4.30 p.m. with half an

hour lunch break and thus they were working for eight hours a day. They also used to work on Saturdays and thus they were working for six days

a week and earning for those six days on the daily wages basis. They pointed out that by G.O.Ms. No. 686 dated April 20, 1987 the Government provided on recommendation of the Chief Engineer, that the working hours from June 3, 1985 would be from 8.00 am. to 5.30 p.m. with a lunch break of half an hour from 12.30 to 1.00. The Government also directed that all Saturdays and Sundays would be holidays for the said workers. It was claimed therefore, that earlier the workers were earning the wages for six days by working for eight hours per day, but from June 3, 1985 the workers were required to work only for five days but for nine hours instead of eight hours. It was also claimed that the work they used to do previously in six days was done, now in five days, but they were being paid only for five days and this had resulted in loss to them. They pointed out that they were actually doing one hour of extra work, but were not being paid for that extra work. They, therefore, claimed the wages for that one hour that they used to put in from June 4, 1985 to December 31, 1987 and on that account claimed Rs. 34,253.23 towards extra wages for all the workmen. They also pointed out that though the other permanent workers were now required to work only for five days, there was no reduction in salary and their salary remained unaltered while the members of the respondent's-Union suffered as their wages went down inasmuch as every week they could have the wages only for five days instead of six days, while the work output by them remained unaltered.

3. This was opposed by the petitioners, who claimed that the respondents were not Turners, Fitters, Mechanics, Blacksmiths, Moulders and Scavengers as claimed by them, but they used to be only helpers on daily wages under N.M.R. It was then claimed that the outturn of these N.M.R. workers got reduced considerably by switching over to five days work in a week. It was pointed out that in fact the workers did not work extra one hour as claimed and for the whole week they work only for 45 hours in comparison to 48 hours earlier. Reliance was placed on Rule 24 of the Minimum Wages Rules where the worker could be asked to work not exceeding 9 hours a day and 48 hours a week. It was, therefore, claimed that the provisions of the Minimum Wages Act were not violated.

4. The parties went to evidence on the basis of these pleadings. The respondent-union pointed out by relying on the worksheets that actually the

output of the work had not been affected by working only for five days, but the wages earned by the respondent's members had certainly been

affected. One D. Kumar was examined on behalf of the petitioner. An Assistant Engineer entered the dock. After appreciation of the evidence, the

Labour Court came to the conclusion that the version of the respondent-Union was proved inasmuch as the output given by these workers

remained unaffected. The Labour Court also came to the conclusion that the proper documents were not forthcoming from the petitioner's side to

substantiate its contention that the work output had suffered on account of the workers working only for five days. The Labour Court has also

chosen to rely on Exhibits A-1 to A-4 and has given a finding that the workmen were actually working for nine hours every day and while the

working days were six, they used to work only eight hours a day. He therefore, came to the conclusion that the workers have actually worked an

hour extra, but were not compensated for that extra work.

5. Learned counsel for the petitioners tried to point out that though previously the working hours were 48, now the working hours were reduced to

45, as the workers were working for nine hours for five days a week. That may be so. The fact remains that the workers used to be paid for eight

hours a day for six days and now the workers are being paid for five days. This was a change within the meaning of Section 9-A of the Industrial

Disputes Act and no notice seems to have been given by the Government as regards this change. This was, therefore, impermissible. The

Government could not cut down the wages of the workers by asking them to work only five days by working one hour extra. Previously the

Government was asking them to work for six days a week and was paying them the wages for six days. The petitioners were working for six days

by working eight hours a day. Now the workers are working for nine hours but only for five days, but getting wages only for five days. It is also to

be seen that the monthly paid workers remain unaffected inasmuch as their wages have not been reduced on account of they being required to

work only for five days a week. Thus, it is clear that this change which was brought about by the Government was only unjustified and that the

workers would be entitled to be paid for the extra one hour that they work. I do not find anything erroneous in the order passed by the Labour

Court. The order is confirmed. The petition has no merits. It shall be dismissed, but without any orders as to costs.