

(1963) 02 KL CK 0009
In the High Court Of Kerala
Case No : O.P. No. 1326 of 1961

E.J. John, Sole Proprietor, St. George Estates

APPELLANT

Vs

Industrial Tribunal, Alleppey and Another

RESPONDENT

Date of Decision : 18-02-1963

Acts Referred:

Industrial Disputes Act, 1947 — Section 2

Citation : AIR 1963 Ker 349

Hon'ble Judges : C.A. Vaidialingam, J

Bench : Single Bench

Advocate : V.K.K. Menon, C.S. Padmanabha Iyer and M. Ramachandran, for the Appellant; The Government Pleader for Respondent No. 1, S. Narayanan Potti, N.K. Varkey and Savithri Sankar for Repondent No. 2, for the Respondent

Final Decision : Dismissed

Judgement

C.A. Vaidialingam, J.—In this writ petition, Mr. V.K.K. Menon, learned counsel for the petitioner, challenges the award of the Industrial Tribunal, Alleppey, in I.D. No. 54/59 dated 29-4-1961, and published in the State Gazette dated 27th June 1961.

2. The State Government, by its order dated 4th May 1961, referred three issues for adjudication at the hands of the Industrial Tribunal, Alleppey viz., (a) revision or wages to Shri V. C. Kuriakose, office-writer, St. George Estates, (b) revision of wages to Shri V. Thomas, writer, St. George Estates and (c) refusal of employment to Shri v. Thomas.

3. The management appears to have taken up two contentions before the Industrial Tribunal, viz., that the dispute that has been referred is an individual dispute, and not an industrial dispute, u/s 2(k) of the Industrial Disputes Act, and that the Industrial Tribunal has no jurisdiction to Adjudicate upon the same. The second contention that appears to have been taken up by the management, was that Sri. V. Thomas, whose case has also been referred for consideration at

the hands of the Tribunal, was not an employee of the management in question, and therefore his claim should not be considered in any event.

4. According to the management, Shri V. C. Kuriakosa mentioned in the order of reference, is the only stall member, employed by the management in the said estate, and that he is the only employee, who was a member of the Union, called Estates Staff Union of South India, Kottayam. It was the further case of the management that no other employee of the estate is interested in the said dispute nor have any of them sponsored the same, and that, therefore the dispute that has been referred is an Individual dispute, and not an industrial dispute. As mentioned earlier, the other aspect that was urged, related to the question as to whether V. Thomas was an employee under the management at all.

5. Both the stands taken up by the management were very strenuously controverted by the Union in question. According to the Union, V. Thomas is an employee as a staff member, under the management, and that the management has wrongly declined to recognise him as their employee, though, in truth and fact, he is an employee at all material times. The union also took up the position that both V. Thomas and V. C. Kuriakose have supported the cause of each other and they being the only two persons employed as staff members of the Association, and having made common cause, it cannot be said that the dispute in this case, is not an industrial dispute.

6. On both these questions, the Industrial Tribunal has ultimately held against the management. So far as the question as to whether V. Thomas was a workman under the management is concerned, the Tribunal goes rather elaborately into the voluminous evidence placed before it, both on behalf of the Union, as well as on behalf of the management. The finding of the Tribunal on this aspect ultimately is that there is preponderance of evidence on the part of the Union to prove that Shri. V. Thomas was an employee under the sole proprietor of St. George Estate. The Tribunal also gives the various periods, when he was in the service of the father-in-law of the petitioner, later on under his mother-in-law, and also the fact that the petitioner was managing the estate belonging to his wife, and ultimately comes to the conclusion that, in the circumstances of this case, it must be considered that V. Thomas was employed by the petitioner-management.

7. So far as the question as to whether the dispute is an industrial dispute, or an individual dispute, is concerned, here again the Tribunal is of the view that according to its finding, there were two staff members under the employ of the management, viz., V. C. Kuriakose and V. Thomas, and each of them has supported the cause of the other and therefore it is an Industrial Dispute. No doubt, the Tribunal has given another reason for coming to this conclusion that it is an industrial dispute, viz., that the Union, the Estates Staff Union of South India, has also taken up the matter on behalf of the workmen concerned, and therefore it is an Industrial dispute, and not an individual dispute.

8. Mr. V. K. K. Menon, learned counsel for the petitioner-management, attacks the views expressed by the Industrial Tribunal against the management on both these aspects. Mr. N. K. Varkey, learned counsel, appearing for the contesting respondent Union, supports the findings, arrived at by the Tribunal, and the learned Government, pleader has also supported the stand taken by the Tribunal in recording findings as against the management.

9. The question as to whether V. Thomas is an employee of the petitioner management or not, it is needless to state, is essentially a question of fact. The case of the management is not that he was not a "workman" as that expression is defined u/s 2(s) of the Industrial Disputes Act. But the contention that was taken was that he was never employed under the petitioner-management at any time, so far as that is concerned, the Tribunal, as I mentioned earlier, has gone very elaborately into the matter, and has ultimately recorded findings as against the petitioner-management.

10-11. After discussing the evidence His Lordship proceeded:) I am not able to accept the contention of the learned counsel for the petitioner, that the finding of the Tribunal on this aspect is in any manner vitiated by the approach made by the Tribunal or that the said finding can be said to be not one arrived at on the evidence adduced in the case. Therefore, the finding of the Tribunal that V. Thomas was in the employ of the petitioner-management at the material time, has to be accepted. And from that, it follows, that there were two staff members working under the petitioner-management, viz., V. C. Kuriakose and V. Thomas.

12. The second contention of the learned counsel for the petitioner, is that the dispute that has been referred to it, is not an industrial dispute, but only an individual dispute. That is, according to the learned counsel, both the workmen -- assuming to be correct the finding of the Tribunal, that V. Thomas is also a workman under the petitioner-management -- were aggrieved persons having an independent grievance of his own. And, according to the learned counsel, each of them cannot support the cause of the other. The question, therefore, that arises for consideration is whether this contention of the learned counsel for the petitioner can be accepted. No doubt, the Tribunal has put it on another ground, viz., that these two staff members apart from supporting each other's cause, have also moved the Estate Staff Union of South India, for taking up their cause. And, ultimately, there is no controversy, the Union also took up the cause of these two workmen.

13. Before I consider certain decisions of courts, to which my attention has been drawn, it is necessary to advert to the actual findings recorded by the Industrial Tribunal on this aspect. According to the Tribunal, there were two staff members, viz., V. C. Kuriakose, and V. Thomas. The Tribunal has also adverted to the evidence of these two persons, wherein they have categorically stated that they are members of the Union, and that each, of them has supported the cause of the other. The Tribunal has also taken note of the fact that, apart from these two staff members, there are no staff members serving under the petitioner

management; and the other members working under the management, were 21 workmen, who did not belong to the category of these two particular workmen, viz., V. C. Kuna kose and V. Thomas. The Tribunal then takes note of the fact that the Estates Staff Union of South India represents a large section of the staff members of the various plantation estates in South India. Admittedly, this Union is not a Union consisting only of the workmen of this management. I am only referring to these aspects, because it may have a bearing in considering the question as to whether the sponsoring of the cause of these workmen by this Union, would convert into an industrial dispute, what otherwise is an individual dispute. There is however, the finding that there are only two members on the staff of the management and each of them has supported the cause of the other. The question is whether under these circumstances, the view of the Industrial Tribunal, that it is an industrial dispute, and not an individual dispute, as contended by the learned counsel for the petitioner, is correct or not.

14. In this connection, it is necessary to advert to certain decisions of the Supreme Court, in the first instance. The earliest decision of the Supreme Court, is the one reported in *Central Provinces Transport Services Ltd. Vs. Raghunath Gopal Patwardhan, Venkatarama Iyer, J.*, speaking for the Court, takes note of the three views that were prevalent at that time, as to whether a dispute concerning rights of individual workers, is or is not an Industrial dispute. The three views referred to by the learned Judge, are: (a) a dispute, which concerns only the rights of individual workers, cannot be held to be an industrial dispute, (b) The other extreme view was the one viz., that a dispute between an employer and a single employee, can be an industrial dispute as defined in Section 2(k). It is clear that these two views represent the extreme, (c) The third view taken note of by the learned Judge, is that a dispute between an employer and a single employee, cannot per se be an industrial dispute, but it may become one, if it is taken up by the Union or a number of workmen. Therefore, it will be seen that notwithstanding the fact that the dispute may be between an employer and a single employee, it will assume the character of an industrial dispute, if the case of the said employee is taken up by 3 Union or a number of workmen. In this connection, the learned Judge makes the following observations at p. 31 (of Lao U); (at p. 109 of AIR).

"The preponderance of judicial opinion is clearly in favour of the last of the three views stated above, and there is considerable reason "behind it. Notwithstanding that the language of Section 2(k) is wide enough to cover a dispute between an employer and a single employee, the scheme of the Industrial Disputes Act does appear to contemplate that the machinery provided therein should be set in motion, to settle only disputes which involve the rights of Workmen as a class and that a dispute touching the individual rights of a workman was not intended to be the subject of adjudication under the Act, when the" same had not been taken up by the union or a number of workmen."

The learned Judge has put it in a negative way that a dispute will not be an

industrial dispute, unless the dispute is sponsored by a Union or a number of workmen. Putting it positively, the position in my view, will be that a dispute touching the individual rights of workmen, will be an industrial dispute, and can be subject of adjudication under the Act, when the same has been taken up by a Union or a number of workmen.

15. The Supreme Court again had to consider in *The Bombay Union of Journalists and Others Vs. The "Hindu", Bombay and Another*, as to whether the dispute in that case was an individual dispute or an industrial dispute. It related to one of the working journalists employed under the "Hindu" at Bombay. The Supreme Court takes note of the fact that the "Hindu", having an office at Bombay at the material time, had, besides the aggrieved party, only nine employees, viz., seven working on the administrative side and two journalists -- Venkateswaran and Tiwari, and the aggrieved party in that case viz., Salivatheeswaran, was working as a Journalist. Therefore, it will be seen that at the material time, in the staff of the "Hindu" at Bombay, there were ten employees, seven of whom were serving in the administrative department and three were working as journalists. The Supreme Court also takes note of the fact that Salivatheeswaran and Venkateswaran i.e., two of the working journalists, were members of the Bombay Union of Journalists, and the third, viz., Tiwari, was not a member of any Union. The Supreme Court also adverts, to the circumstance that the Bombay Union of Journalists, which sponsored the cause of the worker, is a Trade Union, the membership of which is open to all persons, who depend for their livelihood upon the practice of the profession of journalism, including press photographers, artists, etc. It is also seen that the said Union is admittedly not a union of employees of the "Hindu" Bombay, but is a Union of all persons who depend for their livelihood upon journalism in Bombay. The case of Salivatheeswaran, whose services were dispensed with by the management, was ultimately taken up by the Bombay Union of journalists, of which the said employee was a member. The "Hindu" Bombay challenged the competence of the State Government to refer the dispute, on various grounds, and one of the grounds was. that there was no dispute between the working journalists of the "Hindu", Bombay on the one hand, and the management on the other, and that the dispute raised by Salivatheeswaran was merely an individual dispute, which was not supported by an appreciable number of employees of the "Hindu", Bombay. The Industrial Tribunal accepted this contention, and ultimately held that the Government of Bombay had no jurisdiction to refer the dispute to the Tribunal.

16. The Supreme Court, in this connection, refers with approval the observations of Venkatarama Ayyar, J., in *Central Provinces Transport Services Ltd. Vs. Raghunath Gopal Patwardhan*, to which I have made reference earlier. The Supreme Court also takes note of the fact that the same view was reiterated in a later decision viz., *The Newspapers Ltd. Vs. The State Industrial Tribunal, U.P.*, ∴ According to the Supreme Court, the applicability of the Industrial Disputes Act to an individual dispute, as distinguished from the dispute involving a group of workmen, is excluded, unless the workmen as a body or a considerable section of

them make common cause with the individual workman. And the learned Judges also say that the dispute in the case before them, being prima facie an individual dispute in order that it may become an industrial dispute, It had to be established that it had been taken up by the Union of employees of the "Hindu", Bombay, or by an appreciable number of employees of the "Hindu", Bombay. The order of reference was sought to be sustained by the Union concerned on two grounds, viz., that Salivatheeswaran was a member of the Bombay Union of Journalists, which espoused the cause of Salivatheeswaran. And, alternatively, it was pleaded that the dispute raised by Salivatheeswaran was supported by the other two working journalists, who were his colleagues, viz., Venkateswaran and Tiwari.

The Supreme Court considers both these aspects, and is of the view that so far as the support said to have been given by the Bombay Union of Journalists is concerned, that support cannot avail to convert the individual dispute of one of its members, into an industrial dispute. The reasons given by the learned Judges, in coming to this conclusion are that the dispute between the "Hindu", Bombay, and the employee in question, viz., Salivatheeswaran, was in respect of alleged wrongful termination of employment, and that it could acquire, the character of an industrial dispute, only if it was proved that it was supported by the Union of the employees of the "Hindu" Bombay, or by an appreciable number of its employees. The learned Judges also take note of the fact that in that case, members of the union, who were not workmen of the employer, against whom the dispute was sought to be raised, seek, by supporting the dispute, to convert, what is prima facie an individual dispute into an industrial dispute. The learned judges also state that the principle that the persons, who seek to support the cause of a workman, must themselves be directly and substantially interested in the dispute, applies to this class of cases also, and, on this basis, ultimately come to the conclusion that the mere support to the cause of Salivatheeswaran, given by the Bombay Union of Journalists, cannot, therefore, assist the claim of Salivatheeswaran, so as to convert the dispute into an "industrial dispute".

17. The Supreme Court then considers the alternative ground, relied upon by the Union, viz., that Venkateswaran and Tiwari, the other two employees, who were the two other working journalists, had supported the cause of Salivatheeswaran. So far as that is concerned, it is seen that both Venkateswaran and Tiwari had filed affidavits before the Industrial Tribunal, stating that the dispute between Salivatheeswaran and the management of the "Hindu", Bombay, was purely a personal affair, and that they had at any time, supported the claim of Salivatheeswaran in any manner. No doubt, in that case the Union appears to have relied upon a resolution passed at a meeting of the Bombay Union of Journalists. But it is not necessary to go into that aspect. Ultimately, the Supreme Court comes to the conclusion that neither Venkateswaran nor Tiwari had given support to the cause of Salivatheeswaran. The Supreme Court ultimately says that if Venkateswaran or Tiwari had, prior to the date of the reference, supported the cause of Salivatheeswaran, the reference could not

have been in-"Validated. The learned Judges also say that in fact no support to the cause of Salivatheeswaran was given either % Venkateswaran or Tiwari, and therefore, the dispute continued to remain an individual dispute, and was never converted into an industrial dispute.

It is particularly to be noted that the learned Judges do not advert to the question as to whether any support snoulo have been given by the other members of the staff employed by the "Hindu" Bombay, viz., those who were serving on the administrative side. Their Lordships approach the question only from this point of view, viz., that support to Salivathee- swaran"s cause should have been given by a body of workmen employed under the "Hindu", Bombay, or by a Union repre- senting the workmen of the "Hindu". And, even in considering that aspect, the Supreme Court ultimately focussed its attention to find out whether the two other journalists, who are stated to have given their support to Salivatheeswaran"s cause, viz., Venkateswaran and Tiwari, have, as a fact given support to the cause of the aggrieved party; and, ultimately, on that aspect, the Supreme Court comes to the conclusion "that neither of them has given support. The point to De noted is that Their Lordships proceed on the basis that, if support for the cause of Salivathaeeswaran had been given,, either by Venkateswaran or Tiwari, the dispute would have got converted into an industrial dispute; but, as no support to the cause of Salivatheeswaran was given either by Venna-teswaran or Tiwari, the Dispute remained an individual dispute. The Supreme Court comes to the conclusion that the dispute in that case was purely an individual dispute and that the Industrial Tribunal was perfectly Justified" In coming to the conclusion that the order of reference made "by the State Government was absolutely wrong.

18. In Indian Cable Co., Ltd. v. Its Workmen, Lab U 409 (SC), the Supreme* Court had again to consider the question as to when an individual dispute can get converted into an industrial dispute. In that case, it is seen that the Indian Cable Co. Ltd., which was the appellant before the Supreme Court, appears to have taken over the management of the several branches run by the B.I.C.C. Ltd., in India. One of the branches so taken over, was the one at Ambala, where 11 workmen were employed. Later on, it is seen that the appellant appears to have found it unrerunenerative to continue the branch at Ambala, and decided to close down that branch. The said branch according to ths finding recorded by the Supreme Court, consisted of 11 workmen and the services of all these 11 workmen were terminated by the management. But six of the workmen, whose services had been so terminated, took up the matter and sent representations to the management, complaining about the closure of the branch; and ultimately they raised an industrial dispute. The dispute was referred by the Staff Government u/s 10(1)(d) of the Industrial Disputes Act. The actual order of reference to the Tribunal, is also incorporated in the judgment of the Supreme Court, and II will be seen that the workers whose names were given in the order of reference were only the six workmen, who were really the aggrieved persons. The same contention, viz. as to whether the dispute referred for adjudication, is

an industrial dispute or only an individual dispute, was raised by the management in that case, also. Again the Supreme Court came to the conclusion that the Ambala Union, or for the matter of that, no other Trade Union, has taken up the cause of these workmen. The Supreme Court also comes to the conclusion that even, of the 11 persons, whose services had been dispensed with, five had not made common cause along with the other 6 workmen. Ultimately, the position is that the five workmen failed to take up the dispute. On this aspect, the learned Judges, no doubt, ultimately, discuss the question, as to whether the branch at Ambala can be considered to be a separate establishment by itself. The Supreme Court comes to the conclusion that the branch at Ambala must be considered to be a separate industrial establishment, and, on this finding, the Supreme Court comes to the conclusion that the dispute of the six employees, is an Industrial dispute, as defined in Section 2(k) of the Industrial Disputes Act, as that dispute has been raised by the majority of the workmen of the Ambala branch, which is an industrial establishment. The point again to be noted in this connection, is that notwithstanding the fact that no trade union espoused their cause, and notwithstanding the fact that no other employees at Ambala, or working in the other branches, took up the cause of these six workmen, the Supreme Court held that the dispute raised by the six workmen regarding their dismissal, was an industrial dispute, and not an individual dispute.

19. In my view, the principles laid down by the Supreme Court, in coming to the conclusion that the dispute that was referred is an industrial dispute, apply on all fours to the case in hand. I have already adverted to the finding of the Industrial Tribunal that there are only two staff members employed under the petitioner-management, viz., V. c Kuriakose and V. Thomas and that both of them have raised a dispute. That is, in this particular section of the establishment, there were only two staff members, and both of them have made common cause, the one supporting the other, and had raised a dispute, which in my view, must be considered to be an industrial dispute, and not an individual dispute. No doubt, in this case, it must be stated that the view of the Tribunal that the espousing of the cause of the workmen by the Estates Staff Union of South India, will also make the dispute an Industrial Dispute, probably cannot be upheld, in view of the decision of the Supreme court in *The Bombay Union of Journalists and Others Vs. The "Hindu", Bombay and Another*, :. Mr. V.K.K. Menon, learned counsel for the petitioner rather strenuously relied upon certain observations contained in the judgment of the Supreme Court in *New India Motors (P) Ltd. New Delhi Vs. K.T. Morris*, . The particular observations relied upon by the learned counsel, are contained at page 554 of the report (at p. 878 of AIR), which are to the following effect:

"Let us first consider the definition of the "industrial dispute," prescribed by Section 2(k). It means, inter alia, any dispute or difference between employees and workmen which is connected with the employment or non-employment, or the terms of employment, or with the conditions of labour, of any person. It is well settled that before any dispute between the employer and his employee or

employees can be said to be an industrial dispute under the Act, it must be sponsored by a number of workmen, or by a Union representing them. It is not necessary that the number of workmen or the Union that sponsors the dispute should represent the majority of the workmen. Even so, an individual dispute cannot become an industrial dispute at the instance of the aggrieved individual himself. It must be a dispute between the employer on the one hand, and his employees acting collectively on the other. This essential nature of an industrial dispute must be borne in mind in interpreting the material clause in Section 33(1) (a)".

It will be seen that in that case, the learned Judges were considering the application for approval u/s 33 of the Industrial Disputes Act, and the particular expression occurring viz. "a workman concerned in the dispute" in Section 33(1) (a). And it is in connection with such a dispute that the Supreme Court made the observations quoted above. According to Mr. V.K.K. Menon, learned counsel for the petitioner, those observations will clearly establish that notwithstanding the fact that the two workmen joined in raising the dispute, it will not convert the dispute into an industrial dispute, and it must be treated only as an individual dispute. I have carefully gone through the observations of their Lordships of the Supreme Court relied upon by Mr. V. K. K. Menon and extracted above. I do not think those observations give any such support to the learned counsel for the petitioner. As I mentioned earlier, their Lordships were really considering the expression "a workman concerned in the dispute", occurring in Section 33(1)(a), and it is in connection with that, that the observations extracted above have been made by their Lordships. It cannot be considered that the learned Judges of the Supreme Court are making a departure from the views expressed in the previous decisions of the Supreme Court itself. Therefore, the observations extracted above will not assist the learned counsel for the petitioner.

20. Mr. V. K. K. Menon, learned counsel for the petitioner, no doubt, relied upon the decision of Veeraswami, J., of the Madras High Court reported in *Visalakshi Mills v. Labour Court Madurai* (1962) II LLJ 93. Here, again, this decision, in my view, will not give any assistance to the learned counsel, because the learned Judge, on the particular facts of the case, has come to the conclusion that it cannot be said that the individual dispute has been converted into an industrial dispute, by the body of workmen espousing the cause of the workmen. Therefore this decision also will not assist the learned counsel.

21. One other decision has been relied upon by Mr. V.K.K. Menon, learned counsel for the petitioner, viz., the decision of the Andhra Pradesh High Court by Chandra Reddi, C. J., and Kumarayya, I., reported in *Employers of Express Newspapers (Private) Ltd., Madras Vs. Labour Court, Andhra Pradesh, Hyderabad and Others*, . It will be seen that in that case, the Express Newspapers (Private) Ltd., Madras, had, at the relevant period, a branch at Hyderabad and had on its staff five employees, namely a Branch Manager, two working journalists (who were respondents 2 and 3 before the High Court), one teleprinter operator, and

one attender. The two working journalists, viz., respondents 2 and 3, appear to have been dismissed by the management from service on 28th June 1959 for misconduct and gross negligence of duties. Though there was a Union of the employees of the Express Newspapers Ltd., at Madras, there was no such union of the workmen of the Express Newspapers Ltd., at Hyderabad. In particular, it is also seen from the judgment of the High Court, that these two employees, viz., respondents 2 and 3, were not members of the Madras Union, but that, on the other hand, they were members of the Andhra Pradesh Union of working journalists, which had its registered office at Hyderabad. It is seen that at the instance of respondents 2 and 3 the Andhra Pradesh Union of working Journalists took up the cause of these workmen regarding the orders of dismissal passed by the management. When the dispute was referred for adjudication, a contention was raised by the management that the dispute is not an industrial dispute, but only an individual dispute. The Labour Court overruled the objection of the management, inasmuch as the cause of the two working journalists was espoused by the Andhra Pradesh Union of working Journalists, of which they were members, and which was a trade union. Another ground on which the Labour Court overruled the objection of the management, was that the establishment of the Express Newspapers Ltd., at Hyderabad, had only two working journalists and both of them were concerned in the dispute, and therefore, so far as the Hyderabad branch of the company was concerned, it must be held that the dispute raised by both of them, is not an individual dispute, but an industrial dispute.

22. The learned Judge, Basi Reddi, J., originally heard the writ petition challenging the views of the Labour Court, dismissed the writ petition. Against that order of the learned Judge, an appeal was filed, and the said appeal was heard by Chandra Reddy, C. J. and Kumarayya, J. It will be seen that the learned Chief Justice was not inclined to accept the views of either the learned trial Judge or of the Labour Court, because he came to the conclusion that the dispute in that case cannot be considered to be an industrial dispute. According to the learned Chief Justice, none of the other members of the staff of the Express Newspapers Ltd. at Hyderabad, evidently meaning the teleprinter operator and the attender, had espoused the cause of the two working journalists. The learned Chief Justice also takes note of the fact that the Andhra Pradesh Union of working Journalists was not competent to espouse the cause of the two working Journalists and was not competent to convert what was an individual dispute, into an industrial dispute. So far as that is concerned, the learned Chief Justice relies upon the decision of the Supreme Court in *The Bombay Union of Journalists and Others Vs. The "Hindu", Bombay and Another*, . But the learned Chief Justice considers the fact of no support being given to the dispute in question by the other employees of the Express Newspapers Ltd., at Hyderabad, viz., the teleprinter operator and the attender, and ultimately the learned Chief Justice comes to the conclusion that it cannot be said that the dispute referred for adjudication was an Industrial dispute.

23. On this decision of the Andhra Pradesh High court, Mr. V.K.K. Menon, learned counsel for the petitioner, places considerable reliance, In support of his contention that notwithstanding the fact that there were only two staff members working as journalists in the particular establishment at Hyderabad, and though both of them had raised a dispute and asked for a reference being made, nevertheless the learned Judges came to the conclusion that it was not an industrial dispute, but only an individual dispute. The learned counsel urges that the case now before me, is in no way different. If the view of the learned Judges is that, because the teleprinter operator and the attender on the establishment of the Express Newspapers Ltd., at Hyderabad did not espouse the cause of the two working journalists and therefore the dispute in that case is an individual dispute. I should say, with great respect, that such an approach may appear to run counter to the decision of the Supreme Court in *The Bombay Union of Journalists and Others Vs. The "Hindu", Bombay and Another*, :. It was perfectly competent to those employees also to espouse the cause of the aggrieved working journalists. But is their not supporting, by itself, fatal? I have already adverted to the fact when considering the said Supreme Court decision, that the learned Judges of the Supreme Court have made a distinction between the staff of the "Hindu" at Bombay, viz., seven on the administrative side, and three on the Journalistic side. The learned Judges also proceeded on the basis that the non-support by the administrative staff to the claim of Salivatheeswaran, who was a working journalist, does not in any manner alter the situation. In fact, if the position is that in an establishment, which consists of two different sections of employees, when the workmen employed in one section have not given support to a dispute raised by the employees in the other section and such a dispute is not an industrial dispute, one would expect the Supreme Court to have disposed of the matter before them on the short ground viz., that none of the other members, constituting the administrative section of the "Hindu", have given support to Salivatheeswaran, who was no doubt, a member of the journalistic section.

As I mentioned earlier, that, was not the approach made by the Supreme Court. On the other hand, the Supreme Court proceeded on the basis that the dispute raised by Salivatheeswaran should have been espoused by the Union of the employees of the "Hindu" Bombay, or by one or other of the two working journalists viz., Venkateswaran or Tiwari. In fact the Supreme Court goes to the extent of saying that if support had been given to the cause of Salivatheeswaran by one or other of the working journalists, viz., Venkateswaran or Tiwari, it would have become an industrial dispute, and would have ceased to be an individual dispute. No doubt, prima facie, the decision of the Andhra Pradesh High Court referred to above, may appear to support the contention of the learned counsel for the petitioner. But if the learned Judges had intended to lay down that when there were only two persons employed in the particular section, and both of them had made common cause, it can never be an industrial dispute - here again the decision of the Andhra Pradesh High Court, if I may say so with

respect, will be against the principles laid down by the Supreme Court in *The Management of Indian Cable Co., Ltd., Calcutta Vs. Its Workmen*, have already indicated that in that decision, none of the workmen employed in the other branches of the company, had given support to those workmen at Ambala, whose services has been terminated. Even the Ambala Union had not given support to the six workmen, Even the five other workmen employed In the Ambala branch and whose services also were terminated, had not espoused the cause of the six workmen. But still the Supreme Court came to the conclusion that the dispute in that case, is not an individual dispute, but an Industrial dispute.

24. Therefore, to conclude: The position is ultimately this, viz., the establishment In this case consists of only two staff members, viz., V. C. Kuriakose and V. Thomas; and both of them, apart from giving support to each other* cause, had also raised a dispute, and they being the only two members of the particular section, in my view, the requirement to convert what would be an individual dispute into an industrial dispute, would be satisfied in this case. Therefore, the view expressed by the Industrial Tribunal on both the matters in the award, is perecttly correct, and therefore the writ petition is dismissed. Parties will bear their costs, HG/U/D.V.C.