

(2001) 09 KAR CK 0039

In the Karnataka High Court

Case No : Writ Petition No. 1135 of 2001

Government Tool Room and Training Centre's Supervisory
and Officers' Association, Bangalore and Another

APPELLANT

Vs

Assistant Labour Commissioner and Deputy Registrar of
Trade Unions, Bangalore Division-I, Bangalore and Others

RESPONDENT

Date of Decision : 28-09-2001

Acts Referred:

Trade Unions Act, 1926 — Section 2

Citation : (2002) 93 FLR 580 : (2002) 2 KarLJ 245 : (2002) 1 KCCR 645

Hon'ble Judges : R. Gururajan, J

Bench : Single Bench

**Advocate : P.S. Rajagopal, for the Appellant; M. Mahabalesh Gowda,
Government Advocate, S.N. Murthy and Sri Somashekar, for the Respondent**

Final Decision : Allowed

Judgement

R. Gururajan, J.—The Government Tool Room and Training Centre's Supervisory and Officers' Association is before me questioning the endorsement dated 10-11-2000, Annexure-G bearing No. ALC-1/TUA/CR-14/2000-01.

2. The officers and the supervisory staff working in the GTTC resolved to form a Trade Union in the name and style of the "Government Tool Room and Training Centre". In terms of the said resolution, they submitted an application dated 5-6-2000. Proceedings were initiated in the matter of registration. There was correspondence between the petitioners and the respondent-authorities. Finally, the respondent-authorities issued an endorsement in terms of Annexure-G, dated 10-11-2000. In the said endorsement, the authority has refused to register the 1st petitioner as a Trade Union on the ground that the applicants are not the workmen and besides the applicants are supervisory officers and managers. The authority, on the ground of the petitioners being not workmen within the meaning of Section 2(s) of the I.D. Act, has rejected the request and hence the petition.

3. Notice has been issued by this Court. The management got itself impleaded as respondent 4. The Government has filed a statement of objection. They justify the endorsement.

4. Heard Sri P.S. Rajagopal, learned Counsel appearing for the petitioner and Sri Somashekar, learned Counsel for the management and Sri M. Mahabalesh Gowda, learned Counsel appearing for the Government. They reiterate their stand in the matter in terms of their respective statements in this Court.

5. After hearing the learned Counsel, I have carefully perused the impugned endorsement. The registration was refused on the ground that the supervisory officers and managers are not "workmen" within the meaning of Section 2(s) of the I.D. Act. The question that requires consideration by this Court is as to whether the non-workmen under the I.D. Act have a right to form a Trade Union in terms of the Indian Trade Unions Act of 1926.

6. The Trade Unions Act of 1926 is a pre-Constitution Law. The object of the Trade Unions Act is to provide for the registration of a Trade Union and in certain respects to define the law relating to Trade Union. Section 2 defines various terms including "Trade Dispute" and "Trade Union". Chapter II provides for registration of Trade Union. Section 5 provides for an application being made for registration to the Registrar. Section 6 provides for provisions to be contained in the rules of a Trade Union. Section 7 provides for power to call for further particulars in the matter. Registration is provided u/s 8 of the Act. To understand the dispute between the parties, it is relevant to note the two definitions in Section 2(g) and 2(h). The said definitions read as under:

"(g) "Trade Dispute" means any dispute between employers and workmen or between workmen and workmen, or between employers and employers which is connected with the employment or non-employment, or the terms of employment or the conditions of labour, of any person and "workmen" means all persons employed in trade or industry whether or not in the employment of the employer with whom the trade dispute arises; and

(h) "Trade Union" means any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between the workmen and employers or between workmen and workmen, or between employers and employers, or for imposing restrictive conditions on the conduct of any trade or business, and includes any federation of two or more Trade Unions".

7. In the light of these two definitions, it is clear to me that the word "workmen" under the Trade Unions Act includes all persons employed in a Trade or Industry. It is not a restricted definition as in any other enactment of Labour Laws. When the Act itself provides for a wider definition and for a wider meaning of that definition, the Courts cannot narrow it by its decision. That would be against the very object of the Trade Unions Act itself. It is a well-settled principle of law that two conditions are necessary for interpreting an earlier enactment in the light of

the provisions of a later Act. They are:

(1) The two Acts of the Legislature must be in *pari materia*, that is to say that they form a system or code of Legislature; and

(2) The provisions in the earlier Act is ambiguous.

8. In the case on hand, there is no ambiguity in the light of the definitions of the Trade Unions Act. It is relevant to note the judgment of the Supreme Court in the case of *Tirumala Tirupati Devasthanam Vs. Commissioner of Labour and Others*, The Supreme Court was considering in the said case with regard to registration of a Trade Union. The Supreme Court in para 4 rules as under:

"It would be apparent from this definition that any group of employees which comes together primarily for the purpose of regulating the relations between them and their employer or between them and other workmen may be registered as a Trade Union under the Act. It cannot be disputed that the relationship between the appellant and the workmen in question is that of employer and employee. The registration of the association of the said workmen as a Trade Union under the Act has nothing to do with whether the said wings of the appellant are an "industry" or not. We are, therefore, of the view that the High Court went into the said issue, although the same had not arisen before it. Since the findings recorded by the High Court on the said issue, are not germane to the question that falls for consideration before us, we express no opinion on the same and leave the question open".

The Supreme Court, in the said judgment has made it clear that any group of employees may be registered as a Trade Union under the Act for the purpose of regulating the relations between them and their employer or between themselves.

9. It is pertinent to refer to a leading case of this Court in *Registrar of Trade Unions in Mysore v. M. Mariswamy*. That was a case in which the employees of the Provident Fund Organisation got themselves registered under the Trade Unions Act. The said registration was subsequently withdrawn by the Department. The said withdrawal was the subject-matter of a litigation. The said litigation ultimately reached this Court. This Court in para 7 rules as under;

"It is clear from the definition of the expression "Trade Union" that it could be a combination either of workmen or of employees or of both, provided it is formed primarily for one of the purposes mentioned in Clause (h) of Section 2 of the Act. It is, therefore, possible to have a Trade Union consisting only of employers. The emphasis in Section 2(h) is on the purpose for which the Union is formed and not so much on the persons who constitute the Union".

10. In the light of the judgment of the Supreme Court and in the light of the judgment of this Court read with definitions in the Trade Unions Act, it is clear to me that the emphasis is on the purpose for which the Union is formed and not so much on the persons who constitute the Union. In the case on hand, the

registration is not granted on the ground that the persons who constitute the Union are not workmen. Therefore, in the light of a clear definition and in the light of the case-laws, the endorsement has no legs to stand in law. The endorsement, in these circumstances, is set aside. A direction is issued to the respondents to register the petitioner as a Trade Union, if the petitioner otherwise fulfils all other legal requirements in terms of the Trade Unions Act.

11. Petition is allowed in the above manner. Parties to bear their respective costs.