

(2009) 07 KAR CK 0053

In the Karnataka High Court

Case No : Writ Petition No. 3010 of 2009

J.K. Tyres and Industries Ltd. and Vikrant Tyre Plant
(Formerly Vikrant Tyres Ltd.)

APPELLANT

Vs

Mr. C. Prashanth

RESPONDENT

Date of Decision : 23-07-2009

Acts Referred:

Industrial Disputes Act, 1947 — Section 14 A

Citation : (2010) ILR (Kar) 123

Hon'ble Judges : Huvadi G. Ramesh, J

Bench : Single Bench

Advocate : S.N. Murthy Associates, for the Appellant; Sheela Krishna in W.P. No. 3010/2009, V.S. Naik and Manjula N. Kulkarni, in W.P. No. 3011/2009 and S.B. Mukkanappa in W.P. No. 3012/2009, for the Respondent

Final Decision : Dismissed

Judgement

Huvadi G. Ramesh, J.—These three petitions have been filed by the Management assailing the order passed by the Labour Court, Mysore in Reference Nos. 133/1998 dated 30.07.2008 Reference No. 183/2001 dated 11-11-2008 and Reference No. 169/1999 dated 3.1.2007 and 11.08.2008 respectively and the order dated 30-7-2008 passed on I.A. filed for production of documents.

2. The Management filed its objections to the said I.A. stating that the first party is adopting the delayed tactics simply to drag the matters. The Labour Court having found that the matters were very old, allowed the applications. While so ordering, the Labour Court observed that the relevancy and admissibility of the documents is kept open, in other words, for formal production of documents, the Labour Court allowed the applications. So far as marking of documents is concerned, it would be considered by the Labour Court itself during the course of the enquiry at the time of adducing additional evidence. Being aggrieved by the said order, the Management is before this court in these writ petitions.

3. Heard the learned Counsel for the respective parties.

4. Referring to the decision of the Apex Court reported in 1973(26) FLR 359 in the case of *The Workmen of Firestone Tyre & Rubber Co. and The Management and Ors.* regarding "materials on record" learned Counsel for the Management submitted that at the time of holding enquiry those documents were not at all placed before the Enquiring Authority and also before the Labour Court before deciding as to whether the enquiry held is fair and proper. Only at the time of victimization and sentencing, the respondents sought to produce documents and those documents could not be entertained. It is also contended that the material on record alone would form the basis for imposition of punishment. He further submitted that subsequent to the decision on the preliminary issue regarding fairness and properness of the enquiry, the documents could be entertained.

5. Per contra, the learned Counsel for the respondents-workmen have submitted that as far as possible the Tribunal should dispose of all the issues, whether preliminary or otherwise, at the same time stopping of proceedings pending before the Tribunal by High Court for deciding the preliminary issue is not proper in the interest of expeditious adjudication of dispute. Accordingly, referring to the decision of the Apex Court reported in 1983(4) SCC (L&S) 527 in the case of *D.P. Maheswari v. Delhi Administration and Ors.*, the learned Counsel for the respondent-workmen submitted that in the case on hand, the Management had tried to dodge the proceedings pending before the Tribunal. Even with regard to production of documents, it is clearly envisaged u/s 11-A of the Industrial Disputes Act, 1947 that any evidence that would be adduced before the Tribunal forms material evidence on record before concluding the matter. It is also submitted that the Apex Court has deprecated the decision of stopping of the proceedings pending before the Labour Court and also tried all the issues without concluding the matter at once.

6. Having perused the impugned order, it is noticed that the Labour Court has formally allowed the applications for production of those documents, but admissibility of the documents would be considered at the time of enquiry by leading evidence that may not be impermissible in view of the provision as envisaged u/s 11-A of the Act, which reads as under:

11-A. Powers of Labour Court, Tribunal, and National Tribunal to give appropriate relief in case of discharge or dismissal of workmen:

Where an industrial dispute relating to the discharge or dismissal of a workman has been referred to a Labour Court, Tribunal or National Tribunal for adjudication and, in the course of the adjudication of the proceedings, the Labour Court, Tribunal or National Tribunal as the case may be, is satisfied that the order of discharge or dismissal was not justified, it may, by its award set aside the order of discharge or dismissal and direct reinstatement of the workman on such terms and conditions, if any, as it thinks fit or give such other relief to the workman including the award of any lesser punishment in lieu of discharge or

dismissal as the circumstances of the case may require:

Provided that in any proceeding under this Section the Labour Court, Tribunal or National Tribunal as the case may be, shall rely only on the materials on record and shall not take any fresh evidence in relation to the matter.

7. From the reading of the said provision, it is noticed that not only the documents to be produced at the time of preliminary issue rather it may be produced before the Tribunal. However regarding admissibility, it is at the discretion of the Labour Court to admit or otherwise looking into the nature of documents and reason for non-production of documents during the enquiry. But the same cannot be questioned at this time as nothing has been adjudicated by the Labour Court either rejecting or accepting those documents produced.

8. The arguments advanced by the learned Counsel for the petitioner-Management that the documents ought to have been produced before holding the preliminary issue as fair and proper and not thereafter does not stand to reason because of the fact that the very material evidence on record refers to the documents that could be produced before the Tribunal and it does not specify as to what stage these documents to be produced during the pendency of the enquiry. It is needless to say that in the cases on hand, the enquiry is pending before the Labour Court and the matters have not been concluded. When such being the case, there is no merit in the contention of the learned Counsel for the petitioner-Management to say that the documents produced by the respondents-workmen could not be entertained by the Labour Court.

9. In that view of the matter, all the three petitions are dismissed.