
(1999) 02 BOM CK 0002

In the Bombay High Court

Case No : Writ Petition No. 2614 of 1997

Maharashtra State Road Transport Corporation

APPELLANT

Vs

Shrikant V. Ingale

RESPONDENT

Date of Decision : 24-02-1999

Acts Referred:

Industrial Disputes Act, 1947 — Section 22C(2)

Citation : (1999) 82 FLR 100 : (1999) 2 LLJ 495

Hon'ble Judges : T.K. Chandrashekhara Das, J

Bench : Single Bench

Advocate : G.S. Hegde, for the Appellant; Seema Sarnaik, for the Respondent

Judgement

Chandrashekhara Das, J.—The respondent had filed application u/s 33-C(2) of the Industrial Disputes Act for claiming certain benefits for having worked as Divisional Security Inspector under the petitioner Corporation. While working as such in the Ratnagiri Office of the Petitioner, he was transferred from Ratnagiri to Nasik where he retired as Divisional Security Officer on October 2, 1980. Subsequently he came to know that the Security Officer is entitled for overtime allowances. Therefore, he preferred his claim before Labour Court, Nasik for claiming overtime allowance while he was working in the Ratnagiri Office.

2. Among other objections, two objections were raised as preliminary objections by the Petitioner. One of them is that the Nasik Labour Court has no jurisdiction because cause of action arose beyond the jurisdiction of Labour Court, Nasik, as the claim relates to the service that the respondent had rendered at Ratnagiri. The other preliminary objection was that the respondent is not a workman to maintain a claim u/s 33-C(2) of the Industrial Disputes Act. The respondent was examined by the Court below and these two issues were decided by the Labour Court, Nasik in favour of the respondent by the impugned order dated October 21, 1995.

3. I heard learned counsel for the Petitioner Mr. G.S. Hegde and Ms. Sarnaik,

counsel for the Respondents.

4. On the persual of the order and on hearing the parties, I find some substance in the contention of the learned counsel for the Petitioner. The justification for presenting the application before the Labour Court Nasik as explained by the respondent is that since he had retired from Nasik, he was instructed by his superior officers to correspond with Nasik Officer for the purpose of any claim made by him. I am afraid whether this explanation can legally be acceptable because the Labour Court, Nasik apparently has no jurisdiction to entertain that application. It has to be noted that claims made by the respondent regarding overtime allowance does not relate to the period of his service within the jurisdiction of Nasik Office. Therefore, the Labour Court, Nasik lacks territorial jurisdiction to entertain the claim made by the respondent. Consequently as rightly pointed out by the learned counsel for the Petitioner, the findings entered by the Labour Court, Nasik as to question whether the Petitioner is workman or not can also be treated as a decision taken by the Court having no competency. In this view of the matter, the impugned order is liable to be set aside. I do so.

5. As indicated earlier, the petitioner was retired as early as in 1980. The present claim had been initiated in 1988. The preliminary objection has been decided in 1995. The writ petition was filed in 1997. Several years have been spent by both the parties in deciding a simple dispute. Having found that Labour Court Nasik had no jurisdiction, it is conceded by both the parties that either Labour Court at Bombay or Labour Court at Ratnagiri has got concurrent jurisdiction to go into the claim made by the respondent. Learned counsel for the respondent submits that it is convenient for her client to raise the claim before the Labour Court, Bombay.

6. It is the prerogative of the respondent to choose forum among the Courts having concurrent jurisdiction. I therefore direct the Labour Court, Nasik to transmit all the papers relating to the case within a week from today to the President, Labour Court, Bombay for the disposal of the dispute according to law within three months from the date of receipt of the file from the Labour Court, Nasik. The Labour Court, Bombay should decide all the issues including the issues regarding workman together. I make it clear that any evidence that is proposed to be adduced by the parties, should be completed within two months from the date of first appearance of the parties before the Labour Court, Bombay. The parties are directed to appear before the President, Labour Court Bombay on March 15, 1999. Rule is made absolute as indicated above. No orders as to costs.