

(1987) 01 MAD CK 0047

In the Madras High Court

Case No : Writ Petition No. 6557 of 1980

Management of Nathan's Press

APPELLANT

Vs

K. Krishnan and Others

RESPONDENT

Date of Decision : 21-01-1987

Acts Referred:

Industrial Disputes Act, 1947 — Section 33C(2)

Citation : (1993) 3 LLJ 476

Hon'ble Judges : Nainar Sundaram, J

Bench : Single Bench

Advocate : G.R. Lakshmanan, for the Appellant; N.G.R. Prasad, for Row and Reddy, for the Respondent

Final Decision : Allowed

Judgement

Nainar Sundaram, J .

1. This writ petition is directed against the order of the second respondent in C.P. 515 of 1979. That was a claim petition preferred by the first

respondent against the petitioner. In I.D. 314 of 1977 an award was passed holding that the non-employment of the first respondent by the

petitioner was not justified and the petitioner was directed to reinstate the first respondent with full back wages and continuity of service etc.

2. The petitioner reinstated the first respondent only on 2.5.1979, but did not pay back wages and other attendant benefits. It was only on this

background the first respondent filed the claim petitions, claiming amounts under the following heads-

1. Arrears of salary from February 1977 to April 1979 Rs. 10107.26.

2. Leave salary for national and festival holidays Rs. 843.86.

3. Bonus for the year 1975-76 Rs. 260.

4. Bonus for the year 1977-78 Rs. 374.85.

5. Interest at the rate of 6 percent Rs. 350.

The second respondent countenanced all the claims of the first respondent by the impugned order.

3. Mr. G.R. Lakshmanan, learned counsel for the petitioner, would choose to concentrate only two heads of claims. One is with reference to the

award of leave salary for national and festival holidays amounting to Rs. 843.86. Learned Counsel rightly contends that the first respondent was

monthly rated workman, and the salary for the month included the salary for the national and festival holidays, and there could not be an

independent claim for salary on those days. It is not a case where the workman was asked to work on the national and festival holidays. Hence. I

could not sustain the order of the second respondent when he countenanced the claims of the first respondent for this sum of Rs. 843.86.

4. The second grievance of the learned counsel for the petitioner is directed against the award of interest. Learned counsel would submit that the

second respondent is not a Civil Court and does not possess the same power as the Civil Court on the question of interest. Such a view has been

expressed by Veeraswami J. (as he then was) in Krishnamurthy v. The Mail (1964) II L.L.J. 88. The learned Judge further observed as follows: -

Interest is not one of the items that appears to be competent for the Labour Court to go into under that Section unless it has been provided for in

an award or a settlement. That is not the case here. The order of the Labour Court in so far as it related to interest cannot be sustained.'''

It is not claimed here that the award passed in the instant case provided for payment of interest as such. In this context, one has to take note of the

scope of Section 33C(2) of the Industrial Disputes Act, 1947, under which alone the present claim petition has come to be filed. The Labour

Court, while making the computation has got only role of an executing court, and it cannot go beyond the award unless the question is incidental to

working the reliefs on the basis of the award. The heads of claims could be based only on the award, and in the absence of any provision for

payment of interest in the award, there could not be any claim for such interest and countenancing thereof by the second respondent in the present

case. The claim for interest could not be stated to be incidental to computation of the benefits given under the award. I find the view expressed in

Krishnamurthy v. The Mail (1964) II L.L.J. 88 has been taken note of and followed by a single Judge of the High Court of Delhi in Union of India

v. Central Government Labour Court, (1985) 86 FJR 16. In this view, the award of interest by the second respondent has got to be

discountenanced. Accordingly, this writ petition is allowed to this limited extent in the sense in the impugned order passed by the second

respondent, the sum of Rs. 843.86 representing leave salary for national and festival holidays and a sum of Rs. 350 representing the interest shall

stand deleted. I make no order as to costs in this writ petition.