
(1986) 07 KAR CK 0047
In the Karnataka High Court
Case No : Writ Petition No. 20720 of 1986

Maratt Rubber Ltd.

APPELLANT

Vs

Industrial Tribunal and Others

RESPONDENT

Date of Decision : 22-07-1986

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1987) 3 KarLJ 503 : (1994) 3 LLJ 851

Hon'ble Judges : M.P. Chandrakantaraj Urs, J

Bench : Single Bench

Advocate : K.N. Chandrasekhar, for the Appellant; H.M. Ravesh and B.N. Kowsalya for R-2, 3, 5 and 6, for the Respondent

Final Decision : Dismissed

Judgement

M.P. Chandrakantaraj Urs, J.—Petitioner, M/s. Maratt Rubber Ltd., is a company incorporated under the Companies Act having its registered office and factory at 6th Mile. Bannerughatta Road. It has suffered an award passed by the Industrial Tribunal, Bangalore, in I.D. No. 24 of 1982.

2. The dispute was referred to the Tribunal on account of the dispute raised by five workmen who complained of victimisation by way of retrenchment and that the retrenchment was not in accordance with law.

3. The petitioner in this Court was the second party management before the Labour Tribunal. On the pleadings of the first party/workmen and the second party/management, two issues were framed as under;

1. Whether there was need for the second party to retrench the above workmen and the same is bona fide ?

2. Whether retrenchment is made in accordance with law?

4. The parties were asked to lead evidence and the evidence of the parties ended on both sides. After discussing the evidence led for the petitioner management,

the Tribunal has recorded a finding that there was no clear evidence to support the stand taken by the management that the retrenchment had become necessary as a measure of economy. On the other hand, what was admitted by the management was that it was forced to lay off for a considerable period and the workers had been paid the wages required to be paid when a lay off was resorted to. It was in that situation that the majority of the workmen resigned and left. But no proof of such resignation was ever placed before the Court. The Tribunal has accepted the evidence that the management was sick unit and is unable to even provide re-employment to the retrenchment workmen. From that it is evident that the plight of the management was accepted by the Tribunal but justification for retrenchment of particular workmen was never made out and, therefore, the management was found fault with.

5. The petitioner-company was facing various difficulties including an indifferent lawyer who ceased to practise is no ground for this Court to interfere under Article 226 with the finding recorded, that too on evidence which was led by the second party, when no error of law is pointed out. Once the retrenchment is not justified by the evidence, then the retrenchment must be held to be illegal and if retrenchment is illegal, what follows is reinstatement with back wages as a matter of course.

6. As noticed earlier, the Tribunal has taken a somewhat lenient view and directed payment of compensation from the date of retrenchment to the date of the award, and with that the petitioner should be satisfied. Therefore, there is no merit in this petition. Retrenchment was otherwise illegal because no evidence was placed that these were the employees who were admitted to the employment last. It was also found that in the period of sickness, some work was carried on by the petitioner-company with the help of casual labour. Therefore, there is no error in the award in so far as the petitioner is concerned.

7. In this view of the matter, this writ petition is devoid of merit and is liable to be rejected.

8. Accordingly, it is rejected but, in the circumstances of the case, there will be no order as to costs.