
(1987) 11 KAR CK 0024
In the Karnataka High Court
Case No : W.P. No. 5775/1987, etc

M/s. Mark's Exports

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 27-11-1987

Acts Referred:

Minimum Wages Act, 1948 — Section 20

Citation : (1987) 3 KarLJ 204

Hon'ble Judges : M. Rama Jois, J

Judgement

Rama Jois, J.-In this batch of writ petitions, the petitioners have questioned the legality of the notification issued by the State Government under Section 19 and 20 of the Minimum Wages Act ("the Act" for short) designating Labour Officers of the respective divisions or area as Inspectors for the purpose of exercising power under Section 19 of the Act as also adjudicators for the purpose of adjudicating the claims preferred under Section 20 of the Act.

2. The facts of the case, in brief, are as follows: By notification dated 27-9-1984 issued by the State Government in exercise of its powers under sub-section (1) of Section 19 of the Act, the Labour Officers were nominated as Inspectors for exercising the powers under Section 19 of the Act within the territorial area in respect of which they have been appointed as Labour Officers.

By an earlier notification dated 5-4-1983 each of these Labour Officers had been appointed as "designated authority" for the purpose of adjudicating all the claims preferred under section 20(1) of the Act. The contention of the petitioners has been that the effect of the two notifications was that the very officer who was appointed as an Inspector under Section 19 of the Act was also appointed as an adjudicator under Section 20 of the Act. In other words there has been combination of the power as a prosecutor and adjudicator in the same person and that this was not only contrary to the scheme of the provisions of the Act, but also opposed to the basic notions of rules of natural justice and fair trial.

3. On the last occasion, after the learned counsel for the petitioners made their

submissions on the above contention, the matter was adjourned to enable the State to consider as to whether it was not appropriate to nominate different officers for discharging the functions under Sections 19 and 20 of the Act.

4. In fact, the State after seeing the force in the contention, has issued a notification dated 30-10-1987. It reads:

"SOCIAL WELFARE AND LABOUR SECRETARIAT Notification No. SWL 86 LNW 87 Bangalore, dated 30th October, 1987

Whereas in notification No. SWL 250 LMW 82 dated 5th April, 1983 the Labour Officers were appointed as authorities under sub-section (1) of Section 20 of the Minimum Wages Act 1948 (Central Act XI of 1918) and also appointed as Inspectors under sub-section (1) of Section 19 of the said Act vide Notification No. SWL 1 LMW 84 dated 27th September, 1984. It is therefore ordered that the entries at Sl. No. 17 to 38 in the table of the said notification dated 27th September 1984 published in Part IV-2C (ii) of Karnataka Gazette (Extraordinary) dated 29th September, 1984 be omitted.

By Order and in the name of the Governor of Karnataka.

By the above notification, the entries 17 to 39 in the notification dated 27-9-1984, have been deleted. The resultant position is that the Labour Officers are no longer Inspectors for the purpose of exercising power under Section 19 of the Act and their power is confined for the purpose of adjudicating claims preferred under Section 20 of the Act. The learned counsel for the State submitted that as far as officers under Section 19 of the Act is concerned, the Government would be issuing a separate notification designating such officers as considered expedient by the State Government. Therefore, the main contention urged for the petitioners in these petitions no longer survives.

5. One other contention urged by the learned counsel for the petitioners was that under Section 20 of the Act only an officer of the rank of Commissioner of Labour could be appointed and as by the impugned notification Labour Officers had been designated as an authority under Section 20 of the Act, the notification was invalid. In order to appreciate the above contention, it is necessary to set out the provisions of Section 20 of the Act. It reads:

"The appropriate Government may, by notification in the official gazette, appoint any Commissioner for Workmen's Compensation or any officer of the Central Government exercising functions as a Labour Commissioner for any region or any officer of the State Government not below the rank of a Labour Commissioner or any officer with experience as a Judge of a Civil Court or as stipendiary Magistrate to be the authority to hear and decide for any specified area all claims arising out of payment of less than the minimum rates of wages or in respect of the payment of remuneration for days of rest or for work done on such days under clause (b) or clause (c) of sub-section (1) of Section 13 or of wages at the overtime rate under Section 14, to employees employed or paid in that area."

A careful analysis of the above provision would indicate that the following categories of persons could be appointed as officers empowered to adjudicate the claims under Section 21 of the Act. They are:

(1) Any Commissioner for Workmen's Compensation, or (2) Any officer of the Central Government exercising functions as a Labour Commissioner for any ration, or (3) Any officer of the State Government not below the rank of a Labour Commissioner, or (4) Any officer with experience as a Judge of a Civil Court or as stipendiary Magistrate.

Section 2 of the Workmen's Compensation Act defines the expression "Commissioner of Workmen's Compensation". According to that definition, a person nominated by the State Government as Workmen's Compensation Commissioner becomes the Workmen's Compensation Commissioner. In these petitions there is no dispute that everyone of the Labour Officers have been appointed as Commissioner for Workmen's Compensation. They are one of the categories of officers who could be appointed to hear and decide matters falling under Section 20 of the Act. Hence there is no substance in the contention that officers lower in rank than the Commissioner of Labour, could not be designated as an adjudicating authority under Section 20 of the Act.

In the result, I make the following order:

(i) The writ petitions in so far it relates to the challenge to the nomination of Labour Officers both as Inspectors under Section 19 and as adjudication under Section 20 of the Act is concerned the petitions are dismissed as having become unnecessary in view of the amendment issued to the impugned notification.

(ii) The Writ Petitions in so far it relates the challenge to the legality of appointment of Labour Officers/Commissioner for Workmen's Compensation as adjudicates under Section 20 of the Act, is concerned the petitions are dismissed.

Writ petitions dismissed.