

(1959) 08 MAD CK 0032
In the Madras High Court

Murugan Transport

APPELLANT

Vs

Its Workers and Another

RESPONDENT

Date of Decision : 17-08-1959

Acts Referred:

Industrial Disputes Act, 1947 — Section 10

Citation : (1960) 1 LLJ 349

Hon'ble Judges : Balakrishna Ayyar, J

Bench : Single Bench

Judgement

Balakrishna Ayyar, J.—In November 1956, the Murugan Transport, Cuddalore, dismissed six of its employees. The labour officer, Tiruchirappalli, initiated conciliation proceedings, but these failed. He reported the failure in a letter, dated 10 January 1957. Some time later, in January 1957, the management of the Murugan Transport dismissed a seventh employee and refused to take back an eighth who had overstayed his leave. The labour officer initiated conciliation proceedings in respect of these two workers also, but now too his efforts failed. He reported that in a letter, dated 27 March 1957. On 16 July 1957 the general body of the Motor Transport Workers' Union, Cuddalore, passed a resolution in certain general terms. They were to the effect that the requests of the employees of the Murugan Transports had been considered, that the requests should be forwarded to the management for consideration and that if the management failed to grant redress, notice of strike to take effect from 17 August 1957 or some later date be given. The only point that has to be noticed here is that the resolution does not specify or even indicate what the grievances or the requests of the employees of the Murugan Transport were. On 21 July 1957, a notice of strike was served on the management in which a demand was made for the reinstatement of the eight persons. On 31 July 1957 the management replied that the matter was pending with the Government. On 29 August 1957, the Government referred to the labour court, Madras, for adjudication the question whether the dismissal of the seven employees and the refusal, to take back the eighth employee was justified and to what relief the

persons were entitled. Before the labour court, the point was taken that the dispute referred to it was not an industrial dispute but consisted only of individual disputes and that, therefore, it had no jurisdiction to enquire into the matter. The labour court overruled the objection and decided to go into the merits of the case. The management has now come to this Court for the issue of an appropriate writ to quash this decision of the labour court.

2. The letter, dated 21 July 1957. which was addressed to the management and in which the demand was made that all the eight individuals concerned should be taken back, was issued by the secretary of the union. The labour court was apparently inclined to take the view that the secretary could make such a demand on behalf of the union without express authority in that behalf. Now, an examination of the rules of the Motor Transport Workers' Union, Cuddalore, shows that the authority of its secretary is extremely limited. The relevant paragraphs of the rules are Paras. 16 and 22. The former in general terms authorizes the secretary to exercise general supervision and control over the affairs of the union. Going into particulars, the rule says that he shall be responsible for conducting all correspondence on behalf of the union for recording the minutes of the meetings of the committees and the general body, for maintaining registers, for convening in consultation with the president meetings of the union and of the executive committee and issuing notices and agenda therefore and submitting the statements and other documents required to be submitted under the statutes. Under this paragraph, the position of the secretary is made analogous to that of the head clerk of an office where "there are, more than one clerk or of the sole clerk where there is only one clerk. Paragraph 22 authorizes the secretary to incur urgent expenditure not exceeding Rs. 10 between two meetings of the executive committee. Therefore, it is clear that the rules of the Motor Transport Workers' Union do not confer on the secretary power to raise an industrial dispute on behalf of the union. Reference may be made to the decision of a Bench of this Court in *Kandan Textiles, Ltd. v. Industrial Tribunal, Madras* 1949 L.L.J. 875, wherein it is explained at p. 880 that

In the absence of any definite particulars as to the membership of this union, and its representative character, and in the absence of anything to show that it was decided by the workmen-members of this union by resolution or otherwise to take up the cause of the aggrieved workmen and in the absence of evidence to show that the aggrieved workmen put forward, the president of this union as their representative and spokesman, it is impossible to hold in law that an industrial dispute existed between the employer and the workmen to enable the Government to make an order u/s 10(1) of the Act.... In our opinion, it was incumbent on the union by production of the relevant records to positively establish the fact that the union is entitled to represent and that it is, as a matter of fact, representing these 36 aggrieved workers.

It was, however, contended that the meeting of the general body which was held

on 16 July 1957 authorized the strike. I have already referred to the resolution that was then passed, It is general in its terms and does not say anything about the claim of the eight individuals whose names are mentioned in the order of reference which Government made to the tribunal. No letter addressed to the union or any other document which one may presume was considered by the general body on 16 July 1957 and in which the claim of any of these workers was raised was produced before me. It was, however, stated that the claims of these individuals were put for ward in the strike notice issued on 21 July 1957. But the point is that the notice does not say that the claims made on behalf of these eight individuals was being put forward in pursuance of the resolution passed by the general body on 16 July 1957. No doubt there is an explanatory statement attached to the demand. But in some respects it is so manifestly erroneous that one will not be justified in assuming from it that the general body had authorized that any demand should be made on behalf of these eight individuals.

3. The net position is that there is no satisfactory, in fact, no proof whatever to show that the general body authorized its secretary or any of its other officers to make this demand on behalf of these eight individuals on the managements, there was, therefore, no evidence whatever to show that there was an Industrial dispute.

4. In the circumstances, this petition is allowed and the order complained of is quashed. There will be no order as to costs.