
(2002) 07 MAD CK 0015

In the Madras High Court

Case No : Writ Petition No. 16177 of 1995 and W.M.P. No. 25381 of 1996

Needle Industries Ltd.

APPELLANT

Vs

Presiding Officer, Labour Court and Others

RESPONDENT

Date of Decision : 26-07-2002

Acts Referred:

Industrial Disputes (Central) Rules, 1957 — Rule 24
Industrial Disputes Act, 1947 — Section 18(1), 33C(2)

Citation : (2003) 1 LLJ 369

Hon'ble Judges : P. Sathasivam, J

Bench : Single Bench

Advocate : Sanjay Mohan, for Ramasubramaniam Associates, for the Appellant;
V. Prakash, for Respondent Nos. 2 to 5 and 7 to 15, for the Respondent

Final Decision : Allowed

Judgement

P. Sathasivam, J.—Needle Industries Ltd., Nilgiris, aggrieved by the order of the Labour Court, Coimbatore, dated July 31, 1995, made in

C.P. No. 197 of 1994, has filed the above writ petition to quash the same on - various grounds.

2. The case of the petitioner is briefly stated hereunder:

The petitioner is a company registered under the Companies Act and has its factory at Nilgiris. The company engages about 595 workmen and it

has a recognised union called Needle Makers Union. After negotiations, a wage settlement was entered into between the recognised union and the

management on December 11, 1993, u/s 18(1) of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act). This settlement gave

certain benefits to all the workmen of the company in respect of union membership and whether they are parties to the settlement or not and in turn

the workmen were expected to give certain assurance regarding production, etc., and also agreed that they will not make any demand involving additional financial commitments during the currency of the settlement. While so, on December 14, 1993, a letter was sent to the company by the General Secretary of the Labour Progressive Federation Union stating that the proposed new wage revision settlement imposed by the management arbitrarily will not bind them and so they will not accept the same. The said letter was displayed in all the notice boards" of the company. At the same time workmen were informed that if they wanted to have the benefits under the said settlement, they will have to give individual consent to the terms of settlement. 185 workmen gave their individual consent to be covered by the terms of settlement. By letter dated January 20, 1994, the workers numbering 87 indicated to the management in writing that they were not interested in accepting the Section 18(1) settlement and that the benefits arising therefrom need not be extended to them. However, the management never refused to give the benefits of the settlement u/s 18(1) of the Act at any point of time to any employee. In May 1994, a request was made by the respondents/workmen stating that the settlement may now be extended to the members of the LPF Union. On May 5, 1994, June 9, 1994, June 14, 1994, July 7, 1994 and August 11, 1994, some workmen among the 87 workmen, who had refused in writing to accept the terms of settlement came forward and entered into Section 18(1) settlement. The respondents were left out because they did not give their consent to be bound by the terms of the settlement by signing the same. While so, respondents 2 to 15 herein filed C.P. No. 197 of 1994 before the Labour Court, Coimbatore - first respondent herein u/s 33-C(2) of the Act and they submitted that they ought to be paid the revised wages from January 1, 1994 to August 31, 1994. Even in the said petition they did not submit that they are willing to carry out the settlement made u/s 18(1) of the Act. The management was ready and willing to make payment based on the settlement, provided all terms of settlement were accepted by respondents 2 to 15. The Labour Court, after trial, has proceeded to compute the amounts allegedly payable u/s 18(1) of the settlement, dated December 11, 1993, from April 1, 1994, onwards on the basis that the workmen were entitled to the said claim because of the advice made by the Special Deputy Commissioner of Labour in his

proceedings, dated April 28, 1994. Against the said order, the management has preferred the above writ petition.

3. Heard Sri Sanjay Mohan, learned counsel for the petitioner and Sri V. Prakash, learned counsel appearing for respondents 2 to 5 and 7 to 15.

4. The only point for consideration in this writ petition is, whether the impugned order of the Labour Court passed in an application u/s 33-C(2) is sustainable or not.

5. In the earlier part of my order, I have referred to the fact that after negotiations a wage settlement was entered into between the recognised

union, namely Needle Makers Union and the management on December 11, 1993 u/s 18(1) of the Act. This settlement gave certain benefits to all

the workmen of the company in respect of union membership and whether they are parties to the settlement or not, however, in turn the workmen

were accepted to give certain assurance regarding production, etc., and also agreed that they will not make any demand involving additional

financial commitments during the currency year of the settlement. It is also seen that a letter, dated December 14, 1993, was sent to the petitioner-

company by the General Secretary of LPF Union conveying their unwillingness to accept the settlement. It is further seen that on receipt of the

letter it was displayed on all notice boards" of the company and the workmen concerned were informed that unless they furnish individual consent

to be covered by the terms of settlement, the benefits will not be given to them. Thereafter on various dates, most of the workmen submitted their

consent by giving individual letters and availed the benefits. The respondents 2 to 15 herein admittedly did not give their consent and agree for the

terms of settlement. Without willing to abide by the terms of settlement, they approached the Special Deputy Commissioner of Labour and relying

upon an order of advice, dated August 28, 1994, they filed C.P. No. 197 of 1994 before the first respondent.

6. As rightly argued by Sri Sanjay Mohan, for seeking extension of benefits of the settlement from January 1, 1994, there should be a specific

commitment to sign the settlement and accept all terms thereto by respondents 2 to 15. There is no dispute that Section 18(1) of the Act applies

only to the signatories who have signed the settlement, that too in a prescribed form, so that it would be legally binding on them. In the absence of

such specific commitment giving consent to accept the terms of settlement, as rightly argued, the Labour Court, Coimbatore would have no

jurisdiction u/s 33-C(2) of the Act to embark upon the amounts claimed. In other words, in order to claim benefits arising u/s 18(1) of the Act, that

too in proceedings u/s 33-C(2) of the Act, only the signatories of the said settlement-workmen could claim to have an existing right. Rule 24 of the

Industrial Disputes Rules, 1947, prescribes the manner and procedure to be followed. As the management could not enforce Section 18(1)

settlement against non-signatories, correspondingly unless the workmen sign the settlement could not seek enforcement of the same. The said legal

position has not been seriously disputed by Sri V. Prakash, learned counsel appearing for the respondents.

7. In this regard it is relevant to refer to the decision of the Apex Court in the case of Municipal Corporation of Delhi Vs. Ganesh Razak and

Another, , regarding a petition filed u/s 33-C(2) of the Act. In that decision, their Lordships have held at p. 400 of LLJ:

12....where the very basis of the claim or the entitlement of the workmen to a certain benefit is disputed, there being no earlier adjudication or

recognition thereof by the employer, the dispute relating to entitlement is not incidental to the benefit claimed and is, therefore, clearly outside the

scope of a proceedings u/s 33-C(2) of the Act. The Labour Court has no jurisdiction to first decide the workmen's entitlement and then proceed

to compute the benefit so adjudicated on that basis in exercise of its power u/s 33-C(2) of the Act. It is only when the entitlement has been earlier

adjudicated or recognised by the employer and thereafter for the purpose of implementation or enforcement thereof some ambiguity requires

interpretation that the interpretation is treated as incidental to the Labour Court's power u/s 33-C(2) like that of the executing Court's power to

interpret the decree for the purpose of its execution.

It is clear that it is only when the entitlement has been earlier adjudicated or recognised by the employer and thereafter for the purpose of

implementation or enforcement, petition can be filed u/s 33-C(2) of the Act.

8. In the case of C. Mackertich Vs. Steuart and Co., Ltd, , the Supreme Court has held that the settlement has to be in compliance with the

statutory provisions and the same shall be in the form prescribed. I have already

referred to the fact that admittedly the respondents 2 to 15

refused to accept the terms of settlement and not willing to give consent for the terms therein. As discussed above, in the absence of any existing

right and unless respondents 2 to 15 were parties to the settlement u/s 18(1) of the Act, the impugned order granting relief in favour of them suffers

from error apparent on the face of the record and the same is liable to be quashed.

9. In the light of what is stated above, the impugned order of the Labour Court, Coimbatore, dated July 31, 1995, made in C.P. No. 197 of 1990,

is quashed and the writ petition is allowed. No costs. Consequently, connected writ miscellaneous petition is closed.