

(1960) 04 MAD CK 0012

In the Madras High Court

Case No : Criminal Appeal No. 355 of 1958

Public Prosecutor

APPELLANT

Vs

Mettur Industrials Ltd. and Others

RESPONDENT

Date of Decision : 15-04-1960

Acts Referred:

Industrial Disputes Act, 1947 — Section 17A, 29

Citation : AIR 1961 Mad 20 : (1961) 2 FLR 259 : (1960) 2 LLJ 351 : (1961) 1 MLJ 12

Hon'ble Judges : Somasundaram, J

Bench : Single Bench

Advocate : M. Narayanamurthi, for the Appellant; V.T. Rangaswami Aiyangar, for Padmini Raghavan, for the Respondent

Judgement

Somasundaram, J.—This is an appeal by the State against the acquittal of the respondents by the Sub Divisional Magistrate, Sankari. The

appeal is now confined only to accused 1, 2, 4, 5, 8 and 9, of whom the first accused is the Mettur Industries, the second accused is the Chairman

of the Board of Directors and the rest are all directors.

2. One A. R. Varma, a Weaving Production Clerk in the Mettur Industries, was dismissed by its then Manager on the ground that he was found

sleeping during the night shift. The said Varma preferred a complaint to the Industrial Tribunal, Coimbatore, and the Tribunal, after enquiry, passed

an award directing the reinstatement of the dismissed clerk. The said award was published in the Fort St. George Gazette on 10-4-1957.

3. u/s 17-A of the Industrial Disputes Act, the award became enforceable on the expiry of 30 days from the date of its publication, i.e., it became

enforceable on 9-5-1957. But even on 9-5-1957 the dismissed servant was not

reinstated. P.W. 2, the General Secretary of the National Textile

Employees' Union, at Mettur, which is a registered one, wrote a letter to the Manager, Mettur Industries, asking him to reinstate the dismissed

employee but the reply that was received was that the Mettur Industries was contemplating an appeal to the Supreme Court. The first accused

moved the Supreme Court for leave to appeal but leave was refused on 24-5-1957. Then after 24-5-1957 there were certain negotiations

between the Union and the Manager of the Mettur Industries and finally the above said Varma was reinstated on 13-7-1957. The prosecution is

that the said Varma was not reinstated by 9-5-1957, the date when the award became enforceable.

4. The Act does not say as to when a dismissed servant is to be reinstated after the award in the dispute but Section 17-A says that the award

would become enforceable on the expiry of 30 days from the date of its publication u/s 17. There is no dispute that the award was published on

10-4-1957, and there is also no dispute that the award became enforceable on 9-5-1957. Does this phrase "the award becomes enforceable on

the expiry of 30 days" mean that the reinstatement must be made within that time. The language used in the case is that the award becomes

enforceable on the expiry of 30 days, i.e., till 30 days the terms of the award cannot be enforced, only on the expiry of 30 days, it becomes

enforceable. Section 29 says that any person who commits a breach of the terms of the award shall be punishable.

On a reading of the two sections I should think that the expression "the award becomes enforceable on the expiry of 30 days means that the

reinstatement, on the dismissal being found to be wrongful, must be given effect to by the time the award becomes enforceable, i.e., within 30 days,

of the publication of the award. On this interpretation, undoubtedly the dismissed servant was not reinstated within 30 days i.e., by 9-5-1957 but

was reinstated only on 13-7-1957. The first accused was taking steps to file an appeal against the award to the Supreme Court which it was

entitled to do, and even after the dismissal there were negotiations between the Mettur Industries and the dismissed servant.

The negotiations seemed to relate to payment of compensation to Varma in respect of the complaint. Finally by payment of back wages the said

Varma was reinstated on 13-7-1957. Thus, the reinstatement was undoubtedly long after the expiry of the 30 days. Between 9-5-1957 and 24-5-

1957, the first accused was bona fide taking steps to set aside the order of the Tribunal as they were not satisfied with the award and this, as

pointed out earlier, they are entitled to do. Subsequently, from 24-5-1957, there were negotiations. It is on account of these circumstances that the

reinstatement became delayed. Nevertheless, according to the provisions of the Act, strictly speaking, the said Varma ought to have been

reinstated on 9-5-1957.

The delay in the case is not due to any dishonesty or wilful negligence on the part of the first accused but it was due to the honest belief on the part

of the Manager that he was entitled to take steps to set aside the award and to enter into negotiations with the dismissed servant for payment of

compensation. In those circumstances, though I hold that the first accused has violated the terms of the provisions of the Act by not reinstating the

dismissed servant on 9-5-1957, and, therefore, they are only technically guilty of the offence, I think that a mere admonition will do. I therefore

administer an admonition to the first accused in the case, finding that he is guilty of an offence u/s 29 of the Act. But with regard to the directors, I

do not think that even such a punishment is called for. So far as they are concerned, the acquittal is fully justified and the appeal is dismissed against

them (i.e., accused 2, 4, 5, 8 and 9). The appeal is allowed only so far as the first accused is concerned.