
(1975) 03 MAD CK 0021
In the Madras High Court

R. Krishnaswami Reddiar, Etc., Etc.

APPELLANT

Vs

Labour Court and Another, Etc., Etc.

RESPONDENT

Date of Decision : 12-03-1975

Acts Referred:

Industrial Disputes Act, 1947 — Section 10

Payment of Wages Act, 1936 — Section 10, 11, 12, 13, 15

Citation : (1976) 2 LLJ 218 : (1976) 89 LW 233

Hon'ble Judges : K. Veeraswami, C.J.; S. Natarajan, J

Bench : Division Bench

Judgement

K. Veeraswami, C.J.—The scope and effect of Section 15 of the Payment of Wages Act, 1936 and of Section 33C(2) of the Industrial

Disputes Act, 1947, arises the determination in these cases, except in one, where the point is whether the question of status or classification of an

employee will also be within the ambit of Section 33C(2). The respondents, who are all transport workers governed by the provisions of the

Motor Transport Workers Act, 1961, applied to the Presiding Officer, Labour Court, Madurai, u/s 33C(2) of the Industrial Disputes Act for

computation in terms of money certain benefits and allowances they claim to be entitled to under the Motor Transport Workers Act. They claimed

these allowances and benefits as having been in arrears by the employers over a number of years. A preliminary question was raised before the

Presiding Officer, Labour Court, by the employers that he had no jurisdiction under that section to compute in terms of money the benefits and

allowances claimed, but that the workers should have invoked Section 15 of the Payment of Wages Act and asked for relief as in respect of

delayed wages. The Presiding Officer, Labour Court, repelled this contention and

sustained his jurisdiction. This was also the case in Writ Appeal

No. 290 of 1970. But the appellant there is a workman who is aggrieved by the finding of Ismail, J. that whether he belonged to the category of a

clerk or an attender was a question not within the purview of Section Payment of Wage of the Industrial Disputes Act. On that view, the learned

Judge allowed the petition out of which this appeal arises and that is how the workman is before us in that appeal.

2. The Payment of Wages Act, 1936, was enacted to regulate the payment of wages to certain classes of persons employed in industry. Wages

are defined in that Act to cover all remuneration, whether by way of salary, allowances or otherwise, expressed in terms of money or capable of

being so expressed, which would be payable to a person employed in respect of his employment or of work done in such employment. The

definition includes many other sources of remuneration, but excludes a certain variety of remuneration as far instance, bonus, the value of any house

accommodation, travelling allowance and so on. Section 5 of that Act prescribes the time of payment of wages and the next section as to how

wages should be paid, that is to say, in current coin or currency notes or in both. Section 7 provides how and in what cases deductions from

wages are permissible. Section 8 provides for fines. Sections 9 to 13 also deal with deductions from wages. We have then Section 15 which

provides for appointment of a Presiding Officer of a Labour Court or an Industrial Tribunal constituted under the Industrial Disputes Act, 1947, or

under any corresponding law, to be the authority to hear and decide for any specified area ""all claims arising out of deductions from the wages, or

delay in payment of the wages, of persons employed or paid in that area, including all matters incidental to such claims."" The jurisdiction thus

afforded to the officer appointed under this section will extend to (1) all claims arising out of deductions from the wages and (2) delay in payment

of wages. But an application for these two reliefs should be made within the time prescribed by the proviso to Sub-section (2) of Section 15.

These two reliefs, in order to ascertain their respective scope, will have to be determined in the light of the provisions we have referred to relating

to the item for payment of wages and permissible deductions from wages. An appeal against an order dismissing either wholly or in part an

application made u/s 15(2) is provided for by Section 17. Section 17(a) provides for enforcement of the order made u/s 15(2). Section 20 makes any contravention of the provisions stated therein an offence punishable with fine. The procedure for trial of such offences has also been laid down by the Act and then there is a bar of a suit in any Court of law for recovery of wages or any deduction from wages in certain circumstances. We may mention that to transport workers, the Payment of Wages Act has been made applicable. Having regard to all these provisions, it seems to us that the scope of Section 15 is very limited and is circumscribed by the various provisions of the Act we have referred to. The scope, as we consider, is confined to only claims arising out of deductions from wages or delay in payment of wages and an application u/s 15(2) has to be made within the time prescribed. In an application u/s 15(2) what the officer concerned would be called upon to determine is whether, in the case of a claim for deduction, such deduction would be permissible under one or the other provisions of the Act and in the case of a claim for delayed wages, he would have to find whether the claimant for wages is entitled to the claim and whether the payment thereof was delayed in the context of the provision prescribing the time for payment of wages. It is true that wages, as defined in the Act, include wages expressed in terms of money, or capable of being so expressed. But where wages have not been expressed in terms of money, but are capable of being so expressed as in the case of allowance, it appears to us that no machinery for computing the allowances in terms of money has been specifically provided for. In our opinion, Section 15 of the Payment of Wages Act cannot be invoked for the purpose, for, its scope is confined to deductions or delay in payment of wages. Under the guise of delay in payment of wages, it does not appear to us that the officer functioning u/s 15 can be called upon to ascertain the money value of allowances. That, as we consider, is not incidental to the question of delay in payment of wages.

3. On that view of the matter, we consider that such a computation is competent only u/s 33C(2) of the Industrial Disputes Act. That provisions is wide enough to cover that relief and, in our opinion, there is nothing in common between the scope of Section 15 of the Payment of Wages Act and that of Section 33C(2) of the Industrial Disputes Act. Where jurisdiction is concurrent under different provisions in different enactments and

the jurisdiction under one of those provisions is general and is of a larger scope, it may be possible to take the view that the general and wider

jurisdiction should yield place to the special jurisdiction and that only after exhausting the latter, the general jurisdiction can be resorted. Equally, it

may be said that, since the jurisdiction is concurrent, there is no legal bar to the wider jurisdiction being invoked without resorting to the special

jurisdiction. But this aspect of the matter does not arise for our consideration in these cases, as we are of opinion that the scope of Section 15 of

the Payment of Wages Act and that of Section 33C(2) of the Industrial Disputes Act are not concurrent, but different the former being confined

only to the two limited reliefs, which we have indicated. On that view, it would follow that Ismail, J., came to the correct conclusion.

4. Our attention has, however, been invited to some of the decided cases, which we shall briefly notice. For the appellants, reference has been

made to Laxman Tulsiram Vs. Dayalal Meghji and Co. Badashahi Bidi Works and Another, , and Management of the Lakshmi Mills Co. Ltd. Vs.

Presiding Officer, Labour Court, Coimbatore and Another, , decided by one of us. The first of them held that the Labour Court had no jurisdiction

to entertain an application u/s 33C(2) of the Industrial Disputes Act for recovery of the difference in wages actually paid and the wages payable

under the Madhya Pradesh Minimum Wages Fixation Act, 1962. A Division Bench there was of opinion that there was no indication whatever

either in Section 33C(2) of the Industrial Disputes Act, or in Section 15 of the Payment of Wages Act, or in the Supreme Court decision in The

Central Bank of India Ltd. Vs. P.S. Rajagopalan etc., , that the scope of Section 33C(2) was wide enough to include claims u/s 2(vi) and 15 of

the Payment of Wages Act. But this view of the Madhya Pradesh High Court was based on its construction of Sub-section (1) of Section 33C of

the Industrial Disputes Act and in the light of it, of the scope of Sub-section (2) of that section. Though Lakshmi Mills Co. Ltd. v. Labour Court,

(supra) took somewhat such view, we do not think that, that view can be sustained in view of the later decisions of the Supreme Court, as for

instance in Central Bank of India v. Rajagopalan, (supra). There the Supreme Court specifically held that since Sub-section (2) of Section 33C has

not repeated the words of limitation in Sub-section (1) the scope of Sub-section (2) must be held to be wider than that of Sub-section (1).

5. On the above view of the matter, we are inclined to think that since the jurisdiction u/s 33C(2) of the Industrial Disputes Act is not concurrent,

but they are different in their nature and scope, it was competent for the Presiding Officer, Labour Court, to entertain the applications for

computation of the allowances in terms of money and proceed under Sub-section (2) of that section. Accordingly, Writ Appeals Nos. 249 and

336 of 1970 as well as Writ Appeal No. 95 of 1971 are dismissed, but with no costs. We may record that so far as respondents 1, 4 and 5 in

Writ Appeal No. 95 of 1971, are concerned, they do not press their claim.

6. As we mentioned, in Writ Appeal No. 290 of 1970, the question is whether, wide as the scope of Sub-section (2) of Section 33C may appear

to be, it will extend to a determination of the question of categorisation or status of the workman under the pretext of computing in terms of money-

allowances claimed by the workmen. On that question, Mr. Ramachandran, for the appellant relies on Central Bank of India v. Rajagopalan,

(supra). In our opinion that was a case in which the right to allowances was disputed as a defence and the Supreme Court held that it was

competent for the Labour Court to decide it as a question incidental to the computation. We do not think that this decision is authority for the

proposition that for deciding the question of status or categorisation of employees, the power u/s 33C(2) can be invoked. Ismail, J., relied on

Lakshmi Mills Co., Ltd. v. Labour Court, (supra) which was decided by one of us and which was upheld in appeal in Natarajan v. Lakshmi Mills

Co. 1964 II L.L.J. 296. The question of status of an employee was involved in that case and it was held that that was not within the scope of

Section 33C(2). We are of opinion that any incidental question which may be brought within the scope of Section 33C(2) will have to be inherently

related to the problem of computation. But status is not one such question just as a defence of dismissal or retrenchment, which when disputed,

could not be decided u/s 33C(2). They are questions which have to be decided by raising industrial disputes u/s 10(1) of the Industrial Disputes

Act. Accordingly we dismiss Writ Appeal No. 290 of 1970. No costs.