

(1965) 01 MAD CK 0014

In the Madras High Court

Case No : Writ Petition No. 1188 of 1963

R. Narayanasami

APPELLANT

Vs

The Presiding Officer, Labour Court, Coimbatore and Another

RESPONDENT

Date of Decision : 29-01-1965

Acts Referred:

Industrial Disputes Act, 1947 — Section 33

Citation : AIR 1968 Mad 135

Hon'ble Judges : Ramakrishanan, J

Bench : Single Bench

Judgement

1. This writ petition is directed against the order of the Labour Court, Coimbatore in C. P. No. 55 of 1963, a petition by a worker claiming lay-off

compensation under Sec. 33-C(2) of the Industrial Disputes Act. A prayer for wages of Deepavali holidays was also added, but that is not now

the subject-matter of the writ petition. The subject-matter of the writ petition is a claim to lay-off compensation under Sec. 2(KKK) of the Act for

the period 15-10-1962 to 5-2-1963, and amounts to Rs. 165. The management is the proprietor of the branch of the Lakshmi mills at Palladam. It

has also got a mill in Coimbatore. At Palladam, there are two units one a unit spinning cotton and the other a unit where there were about 12

weaving frames at the time of the alleged lay-off engaged in weaving staple fibre into textile materials. The practice at that time was to get ""roving

bobbins"" from Coimbatore for use in the weaving frames at Palladam. There were about 73 workers engaged in Palladam in this weaving unit. The

management published a notice on 15-10-1962 in the following terms:

It is hereby announced to workmen employed in Staple Fibre Unit that as the preparatory machines are being dismantled from Coimbatore Mill

for the purpose of being fixed to staple fibre mill the roving bobbins which were hereto coming from Coimbatore will not come from today. Hence

it is hereby notified that from today till the work of fitting the above machines is over there will be no work"".

(2) Clearly the terms of this notice would mean that a scheme was under way for shifting the preparatory machines at the Coimbatore branch of the

mill engaged in making the roving bobbins from Coimbatore to Palladam, so that the preparation of roving bobbins might thereafter be done at

Palladam itself, and thereafter the bobbins used on the frames for the weaving work. Apparently, the notice conveyed to the workers that some

time would be taken for making the necessary shifting of the machinery and therefore work has to be stopped on the Staple Fibre unit. In the

course of the evidence, the Manager of the management added another reason in the following way. Lakshmi Mills had been given a licence for

extending their spindleage upto 24000 spindles for the Staple fibre unit. It was formerly having 5400 spindles in that unit, and therefore began to

erect fairly elaborate machinery for this purpose. This work could not be completed, and the licence which gave them permission to extend upto

24,000 spindles had also expired on 15-10-1962. But this reason was not given in the notice afore-mentioned.

(2A) The Labour Court came to the conclusion that the lay-off in this case did not satisfy the tests prescribed in Sec. 2(KKK) of the Act. The

relevant portion of that section is in the following terms:--

"lay-off" (with its grammatical variations and cognate expressions) means the failure, refusal or inability of an employer on account of shortage of

coal, power or raw materials or the accumulation of stocks or the breakdown of machinery or for any other reason to give employment to a

workman whose name is borne on the muster rolls of his industrial establishment and who has not been retrenched:.....

(3) The Supreme Court in Management of Kairbetta Estate, Kotagiri Vs. Rajamanickam and Others, has interpreted the definition of the word

lay-off"" in Section 2(KKK) of the Act. It had held that words ""any other reason"" occurring in the definition should be a reason which is allied or

analogous to the other reasons specified in the definition. In other words, an interpretation ejusdem generis should be given to the words ""any other

reason"". The Labour Court thought that in the present case there was a closure of the Staple Fibre Unit and as a consequence it would not come under the definition in Sec. 2(KKK). The learned counsel for the management appearing before me, Sri Narayanaswami, does not support the conclusion of the Lower court, about a closure. Obviously, there was no closure. There was only a postponement of the working in the spinning unit for the reason mentioned in the notice, viz, the time taken for the transfer of the machinery from Coimbatore to Palladam for preparing the roving bobbins at Palladam for preparing the roving bobbins at Palladam itself instead of at Coimbatore. Even assuming that the expiry of the licence also caused lay-off, it is found from the evidence of the management's witness that the work could be resumed on an oral assurance given by the Textile Officer that licence would be renewed. Therefore, there is no question of any closure of the business. It was only a postponement of the working of the unit on account of some temporary supervening factors, whether it be the necessity for shifting a particular type of machinery from Coimbatore to Palladam, or the expiry of the licence and the time taken either for its renewal or getting an oral permission from the authorities directing the work to be continued pending formal renewal of the licence. The several specific reasons given in Sec. 2(KKK) appear to include reasons like those mentioned above, which led to the suspension of the work in this case. One may also look at the supply of readymade ""roving bobbins"" as the material with which work on the spinning frames at Palladam could be carried on. It was the failure of supply of this material comprising of roving bobbins for a short period, that led, according to the notice to the stoppage of the work. If the reason given in the notice can be considered as the sole reason, that would be ejusdem generis with the other specific reasons mentioned in the definition of lay-off in Sec. 2(KKK). Even assuming, for the sake of argument, that there was some time between the expiry of the licence and the obtaining of the oral permission to resume work pending the issue of a formal licence, that would be a period in which the employer was unable to give employment to the employees for a reason, which will also be ejusdem generis with the specific reasons in Section 2(KKK). It is not denied that the workman in this case continued to be shown on the rolls, of the workers in the establishment of the employer in

this case.

(4) Learned counsel for the management contended that the finding of the Labour Court was one on the evidence, and that even if it is erroneous,

this court cannot interfere in certiorari. But here the finding is not merely erroneous, but it involves a total misconception of the scope of Sec.

2(KKK). There was evidently a confusion in the Labour Court's mind between closure of a business and lay-off. It has applied the tests for a

closure to a case where even according to the management no closure existed. While the Labour court has mentioned in more than one place in

paragraph 14 of its order that it has not been shown that any of the reasons mentioned in Sec. 2(KKK) existed in this case thereby stressing only

the negative aspect of the matter, it has not at negative aspect of the matter, it has not at all adverted to the positive aspect and failed to decide

whether the specific reasons given, whether in the notice or in the evidence, fall within the scope of Sec. 2(KKK) of the Act. This is a case where

the Labour Court has failed to exercise the jurisdiction which it ought to have properly exercised. I felt therefore justified in interfering with the

order.

(5) The writ petition is therefore allowed, and the prayer of the petitioner in the petition will be granted. The petitioner will get his costs of this

petition. Advocate's fee Rs. 100.

(6) Petition allowed.