
(2000) 12 AP CK 0086
In the Andhra Pradesh High Court
Case No : W.A. No. 1184 of 1999

Ramireddy S. and Others

APPELLANT

Vs

A.P. Foods and Others

RESPONDENT

Date of Decision : 18-12-2000

Acts Referred:

Constitution of India, 1950 — Article 12

Citation : (2001) 1 ALT 356 : (2001) 1 LLJ 1247

Hon'ble Judges : S.B. Sinha, C.J.;B. Subhashan Reddy, J

Bench : Division Bench

Advocate : A.K. Jayaprakash Rao, for the Appellant; G. Ramachander Rao, for the Respondent

Judgement

S.B. Sinha, C.J.—This appeal arises out of a Judgment and Order dated July 20, 1999 passed by the learned single Judge of this Court in Writ Petition No. 11462 of 1996 whereby and whereunder the writ petition filed by the appellant herein seeking for issuance of a writ or direction in the nature of a Mandamus directing the respondents herein for regularising their services, was dismissed, directing thus:

"The petitioners who are 13 in number have filed this writ petition claiming for regularisation of their services in terms of G.O.Ms. No.212 dated April 22, 1994 with consequential benefits. The petitioners are working as Hamilies in A.P. Foods, Nacharam, which is a society registered under the Societies Act, but it is wholly owned by the Government. This Court in Md. Chand Pasha and Others Vs. A.P. Foods, I.D.A., clearly held that the workmen working in a factory run by the A. P. Foods are not entitled to claim regularisation of their services under G.O.Ms. No.212 dated April 22, 1994.

In view of the aforesaid clear legal position, no relief can be granted to the petitioners in this writ petition. Therefore, the writ petition is accordingly dismissed."

2. An appeal was preferred there against and the appellate Court, inter alia, held that as the appellants have completed more than 240 days of work, their services were liable to be regularised but it was observed that they may take recourse to the provisions of the Industrial Disputes Act. At the instance of the respondents, the matter went to the Apex Court and it, by a Judgment and Order dated March 10, 2000, set aside the order and remitted the matter back to this Court.

3. One of the questions which was raised in this appeal is as to whether G.O.Ms. No. 212 dated April 22, 1994 is applicable to the case of the writ petitioners-appellants or not. As noticed hereinbefore, the learned single Judge proceeded to dispose of the matter upon referring to the decision of another learned single Judge of this Court in the case reported in Md. Chand Pasha and Others Vs. A.P. Foods, I.D.A., wherein it had been held that the said G.O. is not applicable in relation to the workers of a factory.

4. Mr. A.K. Jayaprakash Rao, learned counsel appearing on behalf of the appellants, inter alia, submits that having regard to the provisions of A.P. Act 2 of 1994, the aforementioned G.O.Ms. No. 212 would be applicable to the workers of the factory, owned or controlled by the Government. Mr. Jayaprakash Rao would urge that while deciding the aforementioned case, the counsel appearing for the parties were remiss in bringing to the notice of the learned single Judge the words "undertaking" which would undoubtedly cover a "factory".

5. The learned counsel submitted that a similar question came up for consideration before another Bench in A. Sudhakara Babu Vs. The Managing Director, A.P. State Seeds Development Corporation Ltd., Regional Office and Another, whereunder in a similar case it was held that the said G.O. is applicable also to the factory owned by the State.

6. Mr. G. Ramachandra Rao, learned counsel appearing on behalf of the respondents, on the other hand submitted that the decision of this Court in Md. Chand Pasha v. A. P. Foods (supra) has correctly been rendered.

7. We have heard the learned counsel for the parties for a long time. We have also perused the materials on record. It appears that the writ petitioners-appellants in their writ affidavit did not state the foundational facts as to whether even the writ was maintainable, having regard to the definition of "State" as contained in Article 12 of the Constitution of India.

8. Several other questions of importance had also not been adverted to in the aforementioned decision, including the provisions of the aforementioned Act and the purport and import of the aforementioned G.O.Ms. No. 212. However, having regard to the peculiar facts and circumstances of this case and keeping in view the fact that the parties herein have not brought on record the material facts in order to enable us to arrive at an appropriate decision, we are of the opinion that the cases of the petitioners may be considered at the first instance by the Managing Director of the 1st respondent herein. For the said purpose, the

appellants may file a detailed representation within one week from date and the same be considered by the Managing Director of the 1st respondent within eight weeks thereafter by passing a speaking order. It has been brought to our notice that in the meantime, Act 12 (sic. 2) of 1994 has undergone an amendment in the year 1998 by amending Act 27 of 1998. While passing an order in terms of this judgment, the Managing Director of the 1st respondent may also take into consideration the effect and purport thereof.

9. With the aforementioned observations and directions, this writ appeal is disposed of. No costs.