
(1972) 10 KAR CK 0014

In the Karnataka High Court

Case No : Writ Petition No's. 2225 and 4100 of 1969

S. Dasarathy

APPELLANT

Vs

Mysore Electricity Board

RESPONDENT

Date of Decision : 11-10-1972

Acts Referred:

Constitution of India, 1950 — Article 226

Industrial Disputes Act, 1947 — Section 10 (1) (d), 33 C (2), 36 A

Citation : (1973) 1 LLJ 502 : (1973) 1 MysLJ 81

Hon'ble Judges : K. Jagannatha Shetty, J;G.K. Govinda Bhat, J

Bench : Division Bench

Judgement

Per Govinda Bhat, J.—The petitioners are employed as Junior Engineers in the Mysore State Electricity Board, which is the respondent in the above writ petitions.

2. On three references made by the State Government under S. 10(1)(d) of the Industrial Disputes Act, 1947, hereinafter called the Act, to the Additional Industrial Tribunal in Mysore at Bangalore an award was passed by the said Tribunal on 17-10-1967. The said award was published by the order of the Government in the Mysore Gazette dated 26-10-1967.

3. The respondent in order to give affect to the award confirmed the petitioners in the post of Junior Engineers with effect from 26-5-1968. The petitioner in W.P. 2225/1969 whom we shall refer to as the first petitioner and the petitioner in W.P. 4100/1969 whom we shall refer to as the second petitioner, have in these writ petitions under Art. 226 of the Constitution, sought a direction to the respondent to make an order to the effect that the petitioners have become permanent Junior Engineers with effect from 1-6-1963 and 1-7-1962 respectively. According to the case of the petitioners, on a true and correct interpretation of the award, they are entitled to confirmation with effect from the aforesaid dates.

4. Learned counsel for the respondent Board has raised a preliminary objection

to the maintainability of the writ petitions. The objection was that what the petitioners are seeking by way of relief in these writ petitions is the enforcement of an award made under the Act and that since the Act has provided the mode of enforcement of an award made under the Act, they are not entitled to seek the enforcement of the award under Art. 226 of the Constitution. Learned counsel for the respondent invited our attention to S. 29 of the Act which provides for imposing punishment on any person who commits a breach of any term of any settlement or award which is binding on him under the Act. Section 33C(2) of the Act provides for the mode of recovery of any amount due to a workman from an employer under a settlement or an award by making an application to a Labour Court. Section 36A provides that if in the opinion of the appropriate Government any difficulty or doubt arises as to the interpretation of any provision of an award, it may refer the question to such Labour Court, Tribunal or National Tribunal as it may think fit.

5. In the instant case, the respondent does not concede that the Board has not implemented the award. The dispute between the parties is one concerning the interpretation of one of the terms of the award. As already stated, according to the petitioners they are entitled to be confirmed with effect from the dates mentioned above, but, according to the respondent, they have been confirmed rightly with effect from 26-5-1968. If we are to give relief under Art. 226, we have to consider one of the disputed terms of the award.

6. In *K.M. Mukherjee Vs. Secretary and Treasurer, S.B.I. and Others*, , it was held by the High Court of Calcutta that

"the award of an Industrial Tribunal is the decision of an Industrial adjudication by the statutory tribunal and can have no more statutory force than the decree of a Civil Court. Either it may be executed or otherwise implemented in the manner laid down in the relevant law, but it cannot be enforced by the prerogative writ of mandamus as an instrument having the force of law of itself."

With respect, we are in entire agreement with the statement of law by D. Basu, J. in the above decision.

7. The award of an Industrial Tribunal is not a law. The award has been made under the provisions of the Act. The manner of enforcement of the award made the Act is provided under the Act itself. If the respondent, according to the petitioners, has not implemented one of the terms of the award, the remedy of the petitioners is to seek relief under S. 29 of the Act or to move the State Government to make a reference under S. 36A of the Act.

8. In that view, we uphold the preliminary objection raised by the learned counsel for the respondent and dismiss these writ petitions but without costs.