

(2009) 11 KAR CK 0015

In the Karnataka High Court

Case No : Writ Petition No's. 33500-33503 of 2009

S. Prakasha, B. Jayashankar Gowda, N.J. Thejokar Gowda
and R. Prakash Reddy

APPELLANT

Vs

The Principal Secretary, Department of Labour, Government
of Karnataka and The Management of Zenith Textiles

RESPONDENT

Date of Decision : 26-11-2009

Acts Referred:

Industrial Disputes Act, 1947 — Section 10, 33 (2), 33 (2) (b)

Citation : (2010) ILR (Kar) 857 : (2010) 4 SLR 305

Hon'ble Judges : Ram Mohan Reddy, J

Bench : Single Bench

**Advocate : M.C. Narasimhan Associates and K.B. Narayana Swamy, for the
Appellant; Jagadeesh, for the Respondent**

Judgement

Ram Mohan Reddy, J.—The petitioners, employees of the second respondent company when chargesheeted for acts of misconduct, participated in the enquiry, whence, this enquiry officer submitted a report holding the charges proved leading to the order dt. 26.7.2003 of the disciplinary authority, dismissing the petitioners from service. Since an industrial dispute raised by the association was pending adjudication before the Industrial Tribunal, Mysore, the second respondent - employer filed an application u/s 33(2)(b) of the Industrial Disputes Act 1947 (for short "the Act") for approval of the dismissal by the Tribunal. At the same time, the association espousing the case of the petitioners approached the Labour Conciliation Authority to refer the dispute for adjudication, which was declined by the first respondent. The application filed by the employer invoking Section 33(2)(b) of the Act, was allowed by the Tribunal and approval was granted by order dt. 17.1.2008. The petitioners through their union approached the Deputy Labour Commissioner for conciliation and reference of the Industrial Dispute for adjudication to the Labour Court. The first respondent placing reliance upon the earlier order dt 17.11.2004, declined to refer the dispute for adjudication by endorsement dt. 24.3.2008, Annexure - "A". Hence this Writ

Petition.

2. the answer to the question as to whether the industrial dispute can be raised by either party on an appropriate reference made by the State Government u/s 10 of Industrial Disputes Act, though an order of approval is passed u/s 33(2)(b) of the Industrial Disputes Act 1947, is no more res integra. The Apex Court in the case of Remington Rand of India Limited Vs. Thiru R. Jambulingam, has observed thus:

6. xxx We may, however, observe that while even an order of approval is passed u/s 33(2) of the ID. Act, an industrial dispute can be raised by either party and an appropriate reference can be later made by the Government u/s 10 of the ID. Act. xxx.

Yet again the Apex Court in the case of Cholan Roadways Limited Vs. G. Thirugnanasambandam, has observed thus:

13. It is neither in doubt nor in dispute that the jurisdiction of the Industrial Tribunal u/s 33(2)(b) of the Industrial Disputes Act is a limited one. The jurisdiction of the Industrial Tribunal u/s 33(2)(b) cannot be equated with that of Section 10 of the Industrial Disputes Act. xxx

3. In the light of the aforesaid observations of law, the State Government was not justified in rejecting the claim of the petitioners for having their Industrial disputes referred to the appropriate Court for adjudication under the Act.

The endorsement impugned stands quashed. Writ Petitions are ordered accordingly. The State Government is directed to reconsider the matter afresh and pass order in accordance with law and in the light of the observations supra.