

(1965) 03 KAR CK 0013
In the Karnataka High Court
Case No : Writ Petition No. 1386 of 1962

Sri Gopalakrishna Weaving Mills

APPELLANT

Vs

Labour Court, Hubli and Others

RESPONDENT

Date of Decision : 16-03-1965

Acts Referred:

Industrial Disputes Act, 1947 — Section 25 FFF, 33 C, 33 C (2)

Citation : (1967) 1 LLJ 657

Hon'ble Judges : T.K. Tukol, C.J;K.S. Hegde, J

Bench : Division Bench

Judgement

Tukol, C.J.—The petitioner, who is an employer, has filed this writ petition for a writ of certiorari quashing the orders passed against him by the labour court at Hubli.

2. The labour court has directed the petitioner to pay Rs. 5,172.26 towards retrenchment compensation under S. 25FFF of the Industrial Disputes Act (hereinafter referred to as the Act). This order was made on applications made by the workmen under S. 33C of the Act. The main grievance of the petitioner is that the labour court had no jurisdiction under S. 33C of the Act to order the recovery.

3. Section 33C provides for recovery of money due from an employer. The labour Court has mainly relied upon Sub-section (2) of S. 33C as giving jurisdiction to determine the amount due from the employer. In our opinion, the view taken by the labour court is wholly erroneous. All that Sub-section (2) provides is that :

"Where any workman is entitled to receive from the employer any benefit which is capable of being computed in terms of money, the amount at which such benefit should be computed may, subject to any rules that may be made under this Act, be determined by such labour court as may be specified in this behalf by the appropriate Government, and the amount so determined may be recovered as provided for in Sub-section (1)."

4. In this case, the workmen were not making claim for determination of the monetary value of the benefit which they were entitled to either under any agreement or under the rules. They were seeking to recover the amount by way of retrenchment compensation and the employer was disputing their right to such compensation. Even if it be assumed that the court could have determined it, Sub-section (2) expressly refers to Sub-section (1) in regard to the mode of recovery. The mode of recovery provided in Sub-section (1) is to empower the Government to issue a certificate for that amount to the Collector who shall proceed to recover the amount in the same manner as if it was an arrear of land revenue.

5. Looked at from any point of view, we are unable to find any justification in the order which the labour court has made. Incidentally, we may mention that when the matter was before the labour court, the employer had filed Writ Petition No. 514 of 1960, challenging his liability to pay any amount and the jurisdiction of the State Government to determine the amount. We have looked into the order. It appears that the Government admitted in its counter-affidavit that it had not finally determined retrenchment compensation and that it only directed the Commissioner of Labour to determine the compensation. In view of the stand taken by the Government, that writ petition was allowed and certain directions were issued to the Labour Commissioner, setting aside the order passed by the Government determining the amount of retrenchment compensation.

6. When the question of its jurisdiction was raised before the labour court, in the face of the writ petition and in the face of the express provisions contained in S. 33C, it rejected all those contentions on the basis of the decisions in *South Arcot Electricity Distribution Co. Ltd. Vs. Elumalai and Others*, . We have gone through the portion extracted in the judgment and we are unable to find anything which supports the view taken by the labour court. The point at issue is directly covered by the decision of this Court in *Vithal Parappa Murari v. President, Athani Municipality*, and another []. Therein it has been laid down that S. 33C deals with the recovery of money and the proceedings thereunder are in the nature of execution. It has also been laid down that a dispute between an employer and a workman cannot be determined under that section, particularly a dispute as to whether the retrenchment of the employee is in accordance with law or not. In this view, we are of the opinion that the order passed by the labour court is without jurisdiction.

7. We would like to make it clear that this decision would not preclude the parties to this petition to resort to such legal remedies as are open to them under the law.

8. The petition is allowed and the order passed by the labour court is set aside. The parties are directed to bear their own costs.