

(1966) 04 AP CK 0009
In the Andhra Pradesh High Court

Sri Ramadas Motor Transport (Private) Ltd.	APPELLANT
Vs	
Labour Court and Others	RESPONDENT

Date of Decision : 06-04-1966

Acts Referred:

Industrial Disputes Act, 1947 — Section 33

Citation : (1967) 2 LLJ 704

Hon'ble Judges : Gopalakrishnan Nair, J

Bench : Single Bench

Judgement

Gopalakrishnan Nair, J.—The management of Sri Ramadas Motor Transport (Private), Ltd., Kakinada, is the petitioner. They ask for a writ of certiorari to quash the order of the labour court, Guntur, in Miscellaneous Petition No. 132 of 1963. This miscellaneous petition was preferred by the management u/s 33(3) of the Industrial Disputed Act, for permission of the labour Court to dismiss respondent 2, Umamaheswara Sarma, who la a "protected workman." The labour court dismissed the Miscellaneous Petition No. 132 of 1963 filed by the management for the purpose and directed respondent 2, who was dismissed by the management to be reinstated. Consequently the management has filed this present writ petition.

2. The main argument raised on behalf of the petitioner is that the labour court, in passing the Impugned order, far exceeded Its legitimate powers and jurisdiction u/s 33(3) of the Industrial Disputes Act. It is urged that the labour court cannot assume to Itself the role of an appellate tribunal sitting In appeal over the action taken or orders passed by the domestic tribunal. It is further argued that the labour court has altogether missed the point and approached the task before It from quite a wrong angle. It also erred, according to the petitioner"s learned Counsel, In that It substituted Its own rather personal views for the views on which the domestic tribunal acted.

3. It seems to me that there is substance In these contentions. According to the labour court, the Incident which occasioned the dismissal of respondent 2 by the

domestic tribunal, was a silly Incident, which should not have led to a domestic enquiry or suspension or punishment of respondent 2. In an earlier part of the order, the labour court also expressed the opinion that even If the case put forward by the management is true, the conduct of respondent 2 cannot be said to be subversive of discipline. Views like these are not likely to be shared by other tribunals or by this Court, not to speak of the several domestic tribunals which are entrusted with disciplinary proceedings against the workmen employed In different concerns and business establishments. What la subversive of discipline and what Is a silly Incident and what is not so silly are best left to the concerned domestic tribunals who are on the spot and are much more acquainted with matters connected with the particular Industry and the atmosphere prevailing there.

4. The Impugned order of the labour court also states that it considered that the attitude taken by the management was not fair and bona fide because, according to it, the Incident which led to the domestic enquiry was silly. The other link in the chain of the same kind of reasoning la that because the attitude of the management was not fair and bona fide, the enquiry cannot be said to have been conducted In good faith. Then comes the last link that because the enquiry was not conducted In good faith, the action proposed to be taken by the management against respondent 2 la In violation of the principles of natural justice.

5. I find It difficult to follow this line of reasoning. The labour court does not seem to have properly appreciated the connotation of the expression "failure of natural justice." It does not also appear to be correct to say that because, In the view of the labour court a particular Incident, which disclosed an amount of Indiscipline on the part of a workman was silly, the enquiry started In respect of that Incident was devoid of good faith or bona fides. Further, on a reading of the Impugned order passed by the labour court, It IB difficult to resist the conclusion that the labour court arrogated to Itself the role of an appellate tribunal sitting In judgment over the domestic tribunal. This approach, to my mind, has vitiated the entire proceedings, as the effect of this wrong approach permeates the entire order now under challenge.

6. Sri Appa Rao, for respondent 2, tried to argue that because the management thought fit to adduce some additional evidence before the labour court, the labour court was free to eschew the procedural before the domestic tribunal altogether from consideration and go Into the entire matter afresh and come to Its own conclusions on all the aspects of the matter. In other words, Sri Appa Rao would urge that as the employer has adduced some evidence before the labour court, the labour court was put in seizing of the entire matter and could deal with it as a matter arising for the first time in Its original jurisdiction. This submission appears to be unsupported by principle or authority. On the contrary, the decision of the Supreme Court in *The River Steam Navigation Co. Ltd. Vs. Shyam Sundar Tea Co. Ltd.*, runs counter to the arguments of Sri Appa Rao. This

decision as also an earlier decision of the Supreme Court in G. McKenzie & Co v. its work-men 1959 I L.L.J 286 point out the limits and the scope of the Jurisdiction of the labour, court acting u/s 33(3) of the Industrial Disputes Act. The labour court in the instant case did not keep Itself within the confines of its jurisdiction as Interpreted in the said decisions of the Supreme Court, and this circumstance attaches a serious infirmity to the Impugned order. In the circumstances, I think the order passed by the labour court should be quashed and the labour court should be directed to decide the petition filed by the management u/s 33(3) according to law. In the circum-stances of this case I make no order as to costs.