

(1949) 01 MAD CK 0001
In the Madras High Court

Sri T.D. Ramayya Pantulu, Industrial Tribunal for Engineering Firms and Type Foundries APPELLANT

Vs

Kutty and Rao (Engineer) Ltd. and Another RESPONDENT

Date of Decision : 21-01-1949

Acts Referred:

Industrial Disputes Act, 1947 — Section 7(1), 7(2)

Citation : (1949) 62 LW 192 : (1949) 1 MLJ 231

Hon'ble Judges : Horwill, J

Bench : Division Bench

Judgement

Horwill, J.—On the 5th March, 1948, by G. O. Mis. No. 1115, the Government issued a notification which runs,

Whereas industrial disputes have arisen between the workers and managements of certain Engineering firms and Type foundries in the Province of

Madras and whereas industrial disputes are apprehended in the rest of the Engineering firms and Type foundries in respect of certain matters; in

the exercise of the powers conferred by Section 7(1) and (2) read with Section 10(1)(c) of the industrial Disputes Act, 1947 His Excellency,

the Governor of Madras hereby constitutes an industrial Tribunal consisting of one person, namely, Sri T. D. Ramayya Pantulu....and directs that

the said industrial disputes be referred to that Tribunal for adjudication.

It is seen that in this notification there is no reference to any specific disputes between any group of workers and managements; nor is there any

specification of the firms in which disputes between the management and workers existed. The short question to be decided in this appeal is

whether a general notification of this kind without specification of either the disputes or the firms in which disputes have arisen, is competent u/s 7

of Act XIV of 1947. Subba Rao, J., held that it was not competent and that the Tribunal had no jurisdiction to enquire into disputes brought before it by workers in any particular firm.

2. There is no doubt that this notification is a valid one u/s 7, in that it gives jurisdiction to a particular Tribunal over the whole of the Province of

Madras with regard to disputes arising in engineering firms and type foundries; but the question immediately before us is whether it is equally valid

u/s 10(1) of the Act.

3. The general purpose of the Act is to settle disputes which have arisen or are apprehended. It is the duty of the Board, or Court of Enquiry, or

Tribunal as the case may be, to make enquiries in accordance with the terms of reference and in accordance with the provisions of the Act and the

rules framed thereunder. u/s 11(3) every Board, Court, and Tribunal has the same powers as are vested in Civil Courts under the Civil Procedure

Code; and every enquiry or investigation by a Board, Court, or Tribunal, shall be deemed to be a judicial proceeding within the meaning of

Sections 193 and 228 of the Indian Penal Code; and according to the rules framed under the Act it is the duty of the Chairman of the Board,

Court, or Tribunal to call upon the parties to state their case. It is thus clear that in accordance with elementary principles of justice as well as the

provisions above set out, it is the duty of a Tribunal to give notice to the parties to the dispute. It would therefore be necessary, if the notification of

the Government were competent, for the Tribunal to issue a notice to the workers and management of every engineering firm and every type

foundry in the Province and ask them to come forward and state their cases with regard to disputes of which the Tribunal knows nothing and in

which no dispute may have arisen or may even have been apprehended. Such a procedure would be impracticable and not in consonance with

public interest; because it would foster disputes. The learned Advocate-General conceded this position and was therefore forced to argue that the

Government may have had in mind, when they drew up this notification, certain particular firms which we may designate as A, B, C, D, E and F,

say, and intended the notification to apply to those firms as well as to other firms like G.H.Z. which the Government did not have in mind; and that

it would be the duty of the Tribunal, so the learned Advocate-General contends,

to consider only such disputes, as were brought before it by the management or workers of individual firms. In other words, the Tribunal was not to act suo motu and enquire of all the engineering firms and type foundries in the Province whether there were any disputes that they desired to have settled, but to wait until it was moved by the workers or management of engineering firms and foundries. If that were the intention of the Government, it would infringe the provisions of Section 10(2), which lays down the procedure to be adopted when parties to an industrial dispute desire to have their differences settled. In such a case, they must apply, not to the Tribunal, but to the Government to refer the matter to a Tribunal. In this view of the matter, therefore, this notification was not competent.

4. There is another reason for holding that the order was not competent and that is that when a notification is issued and a reference made to a Tribunal, the Government must have in mind some dispute that has actually happened or one that is likely to arise from circumstances known to the Government. It has been argued by the learned Advocate-General that although the Government might know from enquiry the nature of already existing disputes, it cannot foresee what disputes are likely to occur in the future. We cannot agree; for before concluding that a dispute is apprehended, the Government must necessarily have known that certain demands were being made by workers in a particular firm and that the management of that firm were not inclined to comply with those demands and that an industrial dispute was therefore likely to arise. Moreover, it is most unlikely in this case, that the Government had made enquiries of managements or workers in all the engineering firms and type foundries in the Province and had assured themselves that either disputes already existed or that they were likely to occur in the future. It is true, as the learned Advocate-General has argued, that if a dispute arises in one industry, especially if it relates to a demand for higher wages, and that demand is complied with, there is likely to be a similar demand made by workers doing similar work in other firms of a like nature. But that argument would apply to workers in general in all industries. If the standard of living is raised for a particular body of workers, workers exercising the same degree of skill in other works and industries will naturally, in due course, make similar

demands. However that may be, it seems to us, on a fair reading of

Section 10, that the Government must have reason to believe that in a particular business a definite dispute is known to exist or is apprehended by

reason of demands and discussions taking place amongst the workers and management.

5. In view of our agreement with the learned trial Judge that the reference made by the Government in this case was not competent because of the

generality of the application of the notification, it is unnecessary for us to consider the other question whether the notification is bad because it does

not specify the actual nature of the disputes between the managements and the workers. It however seems to us that if a dispute is to be referred to

a Tribunal, the nature of the dispute must be set out, just as it would if a reference were made to arbitration in an ordinary civil dispute. The

tribunal, like any other Arbitrator, can give an award on a reference only if the points of reference are clearly played before it. It may be true that it

is impossible, and perhaps undesirable, that a reference by the Government should contain a great deal of detail; but there should be sufficient

specification, in our opinion, for the Tribunal to know what the matter is into which it is necessary to enquire and to give an award. If that is not

done, the Government is inviting workers and managements to put forward claims which have never been in dispute, and which were not in the

contemplation of the Government when they issued the notification. It seems to us from the general purport of the Act, that a responsibility lays

upon the Government of considering the existence and the nature of a dispute and to exercise their mind and decide whether it is necessary to refer

that dispute to a Tribunal for an award. Although it is not necessary for us to give a definite finding on this point; yet it seems clear to us that in a

reference by the Government u/s 10(1), it is most desirable that the Government should state what points they consider are in dispute and should

be adjudicated upon by the Tribunal.

6. The appeal is dismissed. The costs of the first respondent will be met by the Government, who have appeared in this appeal through the

Advocate-General.