

(2009) 02 SC CK 0259

In the Supreme Court Of India

Case No : Civil Appeal No. 845 of 2009 (Arising out of SLP (C) No. 20453 of 2007)

State of Karnataka and Another

APPELLANT

Vs

Ravi Kumar

RESPONDENT

Date of Decision : 10-02-2009

Acts Referred:

Industrial Disputes Act, 1947 — Section 10(1), 25F

Citation : (2009) 122 FLR 737 : (2009) 13 SCC 746 : (2010) 1 SCC(L&S) 295 : (2009) 7 SLR 485

Hon'ble Judges : R. V. Raveendran, J;Markandey Katju, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. Leave granted. Heard the learned Counsel.
2. The respondent claims that he was appointed as a cleaner on daily wage basis on 26.10.1979 in the office of the Assistant Executive Engineer, MLB Canal Ramdurg Sub-Divison. According to him he continued as a daily wager till 14.11.1984 when his services were dis-continued without any written order.
3. The respondent did not protest nor challenge the alleged termination. After 14 years he filed a writ petition before the High Court seeking a declaration that his termination from service was in violation of Section 25F of the Industrial Disputes Act, 1947('Act' for short) and for re-instatement as a cleaner with back wages from the date of his termination till date of reinstatement with continuity of service and other consequential benefits. The learned Single Judge of the High Court by order dated 16.3.1998 dismissed the writ petition as not maintainable, with an observation that the respondent may give a representation to the State Government and the State Government may consider whether the dispute should be referred u/s 10(1)(c) of the Act.
4. Taking advantage of the said observation, respondent sought reference and

the State Government made a reference to the Labour Court, Hubli. The respondent filed a claim before the Labour Court reiterating the reliefs claimed in the writ petition. The State Government was not a party before the Labour Court. The Asstt. Executive Engineer who was the sole respondent inter alia contended that the reference was stale having been made after 14 to 15 years and denied that respondent had served in his office. The Labour Court rejected the reference by its award dated 30.07.2001. The said award has been set aside by the High Court in a writ petition filed by the respondent, by order dated 23.03.2006 with a direction to the State Government and the Asstt. Executive Engineer to reinstate the respondent without any back wages. The said order is under challenge in this appeal by special leave.

5. This Court has repeatedly held that stale claims should not be referred - vide *The Nedungadi Bank Ltd. Vs. K.P. Madhavankutty and Others*, and *Assistant Executive Engineer, Karnataka v. Shivalinga*, (2002) 1 LLJ 457SC . We may also refer to the decision in *Regional Provident Fund Commissioner Vs. M/s. K.T. Rolling Mills Pvt. Ltd.*, wherein this Court observed that when a power is conferred by statute without mentioning the period within which it could be invoked, the same has to be done within reasonable period, as all powers must be exercised reasonably, and exercise of the same within reasonable period would be a facet of reasonableness.

6. In this case the respondent did not choose to challenge the termination for 14 years. Merely because some other daily wagers had got some relief, he belatedly approached the High Court in 1998. The writ petition was dismissed with an observation that the respondent was at liberty to make an application seeking reference. The contention of the respondent that reference was made on the direction of the High Court is not therefore correct. As the reference was stale, it ought to have been rejected on that ground alone. It is not possible to expect the Asstt. Executive to prove after 14 years that the daily wager did not work or that he did not work for 240 days in a year or that the daily wager voluntarily left the work. Further when the State Government was not a party before the Labour Court, the respondent could not implead the State Government as a party in the writ petition challenging the award, nor can the High Court grant any relief against the State Government.

7. We, therefore, allow this appeal and set aside the impugned order of the High Court and restore the order of dismissal by the Labour Court, though on different grounds.