
(1993) 02 AP CK 0042

In the Andhra Pradesh High Court

Case No : Writ Petition No's. 6378 and 7110 of 1988

The Depot Manager, APSRTC

APPELLANT

Vs

The Addl. Labour Court and Others

RESPONDENT

Date of Decision : 12-02-1993

Acts Referred:

Andhra Pradesh State Road Transport Corporation Employees (Conduct) Regulations, 1963 — Regulation 18
Constitution of India, 1950 — Article 226
Industrial Disputes Act, 1947 — Section 2, 33C(2)

Citation : (1993) 2 ALT 143 : (1993) 1 APLJ 317

Hon'ble Judges : Sivaraman Nair, J

Bench : Single Bench

Advocate : Vada Rajagopal Reddy, for the Appellant; Govt. Pleader for Education for Respondent No. 1 and G. Bikshapathy, for the Respondent

Final Decision : Dismissed

Judgement

Sivaraman Nair, J.—The only question which arises for consideration in these two writ petitions is as to whether the petitioner employer is right in its submission that the orders passed by the Labour Court in favour of workmen on the applications filed u/s 33-C(2) of the Industrial Disputes Act are devoid of jurisdiction. Counsel for the petitioner urges two points. Firstly, the respondent-workmen were contract conductors employed on daily wages and were not regular employees of the Corporation. He submits that according to Clause 2 of the Conduct Regulations, 1963, the daily-rated workmen are not employees of the Corporation. His next submission is that the jurisdiction of the Labour Court u/s 33-C(2) to pass orders is confined to the determination of claims of persons who are admittedly workmen who have to receive from the employer any money or any benefit which is capable of being computed in terms of money and that the power does not extend to the determination of the status of persons claiming to be workmen.

2. The claim that the respondent-workmen were contract conductors on daily

wages and were not entitled to be treated as regular workmen is controverted by the assertions contained in the counter-affidavit which the petitioner had filed before the Labour Court as also by its conduct in initiating action against respondent-workmen under the very Conduct Regulations, Clause 2(d) which excluded daily-rated workmen from the definition of employee. In the counter-affidavit before the Labour Court what was asserted was that the respondent-workmen were initially appointed as daily-rated workmen and that their services were subsequently regularised. It was also stated that they were appointed on a monthly scale of salary. These assertions contained in the pleadings before the Labour Court contained an undeniable admission that the respondent-workmen were employees who fell within the definition of workmen u/s 2(5) of the Industrial Disputes Act:

3. It is surprising that the petitioner now claims that the respondent-workmen who were removed from service on 24-5-1985 and 25-6-1985 after enquiry conducted under the Conduct Regulations are not employees of the Corporation. Had they not been, there would not have been any enquiry with reference to the Conduct Regulations. Petitioner is not entitled to approbate and reprobate. If the persons concerned were not employees of the Corporation, there was no justification for removing them after an enquiry which was conducted with reference to the Conduct Regulations.

4. If the petitioner went to Court with the definite case that though the respondent-workmen were initially appointed as daily-rated workmen, their services were regularised or that they were put on regular scales of salary, no question of the Labour Court arrogating jurisdiction to determine the status of the person in proceedings u/s 33-C(2) arises for consideration. They were admittedly workmen till such time as they were removed from service after conducting an enquiry. The date on which the removal orders were passed was the date or dates on which the employer-employee relationship was snapped. If there was any need for removing them from service, it has to be assumed that the persons concerned were employees in the service of the Corporation.

5. The reason which occasioned the employees to go before the Labour Court with their applications u/s 33-C(2) was to seek adjudication of the propriety of "putting them off duty" on allegations of cash and ticket irregularities. They were "put off duty" from 11-1-1985 and that position continued till the dates on which they were removed from service, namely, 24-5-1985 and 25-6-1985. It is not denied before me that neither the Conduct Regulations nor the Service Regulations provide for putting any employee "off duty". That was neither a punishment nor an intermediate measure in aid of any punishment prescribed under the Service Regulations. Counsel for the petitioner submits that the respondent-workmen may at best be considered to have been suspended from service for the period in question, in which case, they will be entitled to claim only subsistence allowance. He may be begging the question. They could be suspended only if they were employees. They could be offered subsistence

allowance only if, by a valid order passed in exercise of powers contained in Regulation 18 of the Classification, Control and Appeal Regulations the petitioner-employer had suspended them from service. No order of suspension having been validly issued, it is not open for the petitioner to contend that the entitlement of the workmen was only for subsistence allowance.

6. Admittedly, the respondent-workmen were in the employment and the employer-employee relationship continued till it was terminated by the orders of removal. The order of the Labour Court awarding wages due to the workmen for the period during which they were forcibly prevented from rendering service to the Corporation during subsistence of employer-employee relationship, therefore, eminently just. I do not find any defect of jurisdiction or illegality in the orders impugned in these proceedings.

7. The Writ petitions, therefore, fail and are hereby dismissed but without any order as to costs.