
(1951) 12 BOM CK 0006
In the Bombay High Court
Case No : Misc. Application No. 189 of 1951

The Madras Electric Tramways Ltd.

APPELLANT

Vs

M.K. Ranganathan

RESPONDENT

Date of Decision : 11-12-1951

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Industrial Disputes (Appellate Tribunal) Act, 1950 — Section 6
Industrial Disputes Act, 1947 — Section 10(1)

Citation : AIR 1952 Bom 449 : (1952) 54 BOMLR 552 : (1952) ILR (Bom) 974 : (1952) 1 LLJ 176

Hon'ble Judges : Chagla, C.J.;Gajendragadkar, J

Bench : Division Bench

Advocate : Jamshedji Kanga and N.A. Palkhiwala, for the Appellant; K.T. Sule, for the Respondent

Judgement

Chagla, C.J.

[1] This is an appeal from an order made by Shah J. on an application for a writ of certiorari against the Labour Appellate Tribunal, and the application came to be made under the following circumstances. There was a dispute between the Madras Electric Tramways Co., Ltd., who is the appellant before us and the petitioner who is an employee and other employees as to an order of dismissal passed by the Madras Electric Tramways Co. on 10-4-1950, which was confirmed by it on 22-5-1950. The contention of the petitioner and other employees was that they had been wrongly dismissed, the contention of the company being that their action was proper. It is unnecessary to go into the merits of that dispute. On 20-9-1950, the Madras Government by a notification issued u/s 10(1)(e) Industrial Disputes Act referred this dispute to the Labour Tribunal and the Labour Tribunal gave its decision on 9-12-1950, by which it ordered the reinstatement of the petitioner. There was an appeal to the Labour Appellate Tribunal and on 4-6-1951, the Labour Appellate Tribunal allowed the appeal. It was against this order of the Labour Appellate Tribunal that the petitioner filed a

petition for a writ of certiorari. Shah J. took the view that the order of the Labour Appellate Tribunal was without jurisdiction, quashed the order, and granted the prayer sought by the petitioner. It is from that order of Shah J. that the company has come in appeal before us.

[2] Sir Jamshedji has raised a question in limine which was not urged before the Court below, and in our opinion that point must prevail in favour of the appellant, and the point urged is that this Court has no jurisdiction to issue a writ in this matter. The jurisdiction of the Court was sought on the ground that the office of the Labour Appellate Tribunal is in Bombay. This is an all-India Tribunal acting as an appellate authority from the decisions of various Labour Tribunals all over the country. Although its office is situated in Bombay it also sits at other places in India like Madras, Calcutta and Allahabad, and the contention of the petitioner is that inasmuch as this judicial authority has passed an order without jurisdiction it is competent to the petitioner to come to this Court for a writ for quashing that order. On the other hand it must be observed that both the Madras Electric Co. and the petitioner are not within the jurisdiction of this Court. The subject-matter of the dispute between the company and its employee is also not within the jurisdiction of this Court, and the award made by the Labour Tribunal of Madras is also not capable of being corrected or modified by any order of this Court. The question that arises for our determination is whether the mere fact that the Labour Appellate Tribunal has its office in Bombay is sufficient to confer jurisdiction upon this Court to issue a writ of certiorari. It is pointed out that after our Constitution came into force the power of this Court to issue writs has been enhanced and Article 226 confers the power upon every High Court to issue writs throughout the territories in relation to which it exercises jurisdiction. Therefore, it will be noticed that Article 226, while conferring the power upon the High Court to issue writs, qualifies that power by limiting its exercise to the territories in relation to which the High Court exercises jurisdiction. Now, the High Court ordinarily exercises territorial jurisdiction when the subject-matter is situated within its jurisdiction or the parties reside within it. Therefore, although we now have the power to issue a writ of certiorari not only within the town and island of Bombay but through out the territory of the State, that power can only be exercised provided we have jurisdiction either in respect of the subject-matter or in respect of parties. Mr. Sule contends that as the Tribunal is situated in Bombay we have the power under Article 226 to correct its order. It is also pointed out that under Article 227 we have the power of superintendence over this Tribunal. But even under Article 227 our power is limited to exercising the power of superintendence over Tribunals situated in a territory in relation to which we can exercise jurisdiction. Therefore, it is not sufficient to have the power to issue a writ against the Labour Appellate Tribunal. We must also have the jurisdiction to issue that writ. The question is whether on the facts of this case we have the necessary jurisdiction to correct the order made by the Labour Appellate Tribunal.

[3] Now, an identical question came up for consideration before the Privy Council in the well known case of *Ryots of Garabandho v. Zemindar of Parlakimedi*, 70

Ind. App. 129 P. C. In that case their Lordships of the Privy Council were considering two questions that arose before them. The first question was whether the Madras High Court had jurisdiction to issue a writ of certiorari outside the limits of the local jurisdiction of the town of Madras. The second question was whether the Madras High Court had jurisdiction to issue a writ of certiorari against the Board of Revenue which was situated within the town of Madras and whose order was sought to be quashed by the petitioner. On the first question their Lordships came to the conclusion that the jurisdiction of the High Court of Madras to issue writs of certiorari was confined to the ordinary original jurisdiction, of the Madras High Court. But that did not dispose of the matter because the Board of Revenue was situated within the town of Madras, and if a writ of certiorari could be issued merely on the ground of the location of the Board of Revenue, then the Madras High Court, even on this view of the Privy Council, would undoubtedly have jurisdiction to issue the writ. Then the Privy Council went on to consider the question of jurisdiction and it was pointed out by Lord Simon in the judgment he delivered on behalf of the Board that the question of jurisdiction was one of substance and not of form, and in considering the question of substance their Lordships came to the conclusion that in substance although the Board of Revenue was situated within the town of Madras, the High Court of Madras had no jurisdiction to issue the writ, and the question of substance was decided by the Privy Council in the following way. Their Lordships took the view that the subject-matter of the dispute was not within the original civil jurisdiction of the Madras High Court. Their Lordships also took the view that the parties to the dispute were not subject to the original civil jurisdiction of the Madras High Court and therefore the Privy Council came to the conclusion that the mere location of the Revenue Tribunal within the town of Madras did not confer jurisdiction upon the High Court. Here the position is exactly identical. The subject-matter of the dispute is not within the jurisdiction of this Court. It is a dispute with regard to the dismissal by the Madras Electric Tramways Company of one of its employees and if the dispute had to be agitated in any Court, it could certainly not have been in this High Court. The parties to the dispute, the company and the petitioner, are also not within the jurisdiction of this Court, and the Court of first instance which gave its award is also not subject to the jurisdiction of this Court either under Article 226 or under Article 227. There, fore, our jurisdiction is sought simply on the ground that the final Court of appeal happens to have its office situated within jurisdiction. If jurisdiction is a matter of substance, as it should be in a case of a high prerogative writ, then it could not be said that we should interfere in a matter in respect of the subject-matter of which we have no jurisdiction and in respect of the parties to the dispute we have also no jurisdiction. Mr. Sule suggested that there would be difficulty in the petitioner getting any relief from the Madras High Court because of the Tribunal's office being situated in Bombay. It is for the Madras High Court to decide that question, but speaking for ourselves we apprehend no difficulty. Although the Appellate Tribunal is situated in Bombay, the Madras High Court can quash the order and make its decision binding upon

the parties who would be before that Court and who are within the jurisdiction of that Court. Our reading of the decision of the Privy Council is that as far as the question of jurisdiction is concerned it is the Madras High Court that has jurisdiction to issue a writ of certiorari and not this Court.

[4] In view of our decision on the question of jurisdiction, it is unnecessary to consider whether the learned Judge below was right on merits in coming to the conclusion that he did. The result is that the appeal succeeds. We will set aside the order passed by Shah J. No order as to costs throughout. Cross-objections fail and are dismissed. No order as to costs of the cross-objections.

[5] Appeal allowed; Cross-objections dismissed.