

(2005) 07 MAD CK 0093
In the Madras High Court
Case No : W.A. No. 508 of 2002

The Pondicherry Co-op Sugar Mills Ltd.

APPELLANT

Vs

L. Muruganantham

RESPONDENT

Date of Decision : 27-07-2005

Acts Referred:

Pondicherry Factories (Welfare Officers) Rules, 1965 — Rule 6

Citation : (2005) 4 CTC 360 : (2006) 1 LLJ 646 : (2005) 3 MLJ 649 : (2005) WritLR 667

Hon'ble Judges : Markandey Katju, C.J.; F.M. Ibrahim Kalifulla, J

Bench : Division Bench

Advocate : Sasidharan, Govt. Pleader, for the Appellant; R. Vaigai, for Row and Reddy, for the Respondent

Final Decision : Dismissed

Judgement

Markandey Katju, C.J.—This writ appeal is filed against the judgment of the learned single Judge dated 7.12.2001. We have heard the learned counsel for the parties and perused the records.

2. The facts have been given in the judgment of the learned single Judge and hence we need not repeat the same.

3. It is not disputed by the learned counsel for the appellants that the respondent was a Welfare Officer in the appellant factory. Rule 6 of the Pondicherry Factories (Welfare Officers) Rules, 1965 states:-

1. A Welfare Officer shall be given appropriate status corresponding to the status of a member of the factory executive staff.

2. The conditions of services of a Welfare Officer shall be the same as those of other members of the staff of corresponding status in the factory, provided that in the case of discharge or dismissal, the Welfare Officer shall have a right to appeal to the Commissioner of Labour, whose decision thereon shall be final and

binding upon the occupier of the factory.

The appeal shall be preferred within thirty days from the date of receipt by the Welfare Officer of the order of discharge or dismissal.

3. The salary of a Welfare Officer shall not be less than Rs.200 per mensem:

Provided that the salary of any Welfare Officer which is higher than the minimum prescribed in this sub-rule and to which he is for the time entitled shall not be reduced.

Note: The salary for the purpose of this sub-rule does not include allowances, if any payable, to a Welfare Officer in addition to pay.

4. No penalty shall be imposed upon a Welfare Officer by the management unless he has been first informed in writing of the grounds on which, it is proposed to take action and has been afforded an adequate opportunity of defending himself.

4. Since a Welfare Officer has to be given the status and the conditions of service of a factory executive staff, obviously the appellant cannot give the respondent a status and salary of an employee below the executive staff. This was the precise grievance of the respondent/writ petitioner.

5. Learned counsel for the appellants submitted that the learned single Judge should only have directed the writ petitioner's representation to be decided and he should not have himself directed grant of the pay scale to the respondent.

6. We would have ordinarily agreed with the learned counsel for the appellants, but in this case, in our opinion there is really nothing for the authority concerned to decide since the status and conditions of service of a Welfare Officer have been fixed by Rule 6. The use of the word "shall" in Rule 6 indicates that it is mandatory on the factory to give the status and conditions of service of the factory executive staff to a Welfare Officer.

7. Though no doubt some times "shall" has been interpreted as "may", but it is well settled that ordinarily "shall" means "shall" vide , The State of Uttar Pradesh and Others Vs. Babu Ram Upadhyaya , Sainik Motors, Jodhpur and Others Vs. The State of Rajasthan, , Govindlal Chhaganlal Patel Vs. The Agricultural Produce Market Committee, Godhra and Others, etc.

8. In our opinion, the word "shall" in Rule 6 is mandatory and hence a Welfare Officer has to be given the status and conditions of service of the executive staff. Hence nothing needs to be decided by any authority on that account.

9. For the reasons given above, there is no merit in this appeal and it is dismissed. No costs.