

(1984) 09 MAD CK 0011

In the Madras High Court

Case No : Writ Petition No. 8646/84

The Workmen Employed in Ashok Leyland Ltd. and Ashok
Leyland Co-operative Canteen Ltd., Madras

APPELLANT

Vs

The Management of Ashok Leyland Ltd., Madras, The
Management of Ashok Leyland Co-operative Canteen Ltd.,
Madras and The Presiding Officer, I Additional Labour Court,
Madras

RESPONDENT

Date of Decision : 14-09-1984

Acts Referred:

Factories Act, 1948 — Section 46

Citation : (1986) 1 LLJ 208

Hon'ble Judges : K.M. Natarajan, J

Bench : Single Bench

Judgement

1. On behalf of 89 workmen in respect of whose non-employment an industrial dispute was referred to the third respondent, the writ petition has

been filed by the union to assail the validity and correctness to award passed by the third respondent. Admittedly, the employees were engaged in

a canteen originally run by the first respondent. The running of a canteen was in compliance with the requirements of S. 46 of the Factories Act,

1948. The canteen was run from 1961 to 1971 and thereafter it was entrusted to a contractor, viz., a society registered under the Co-operative

Societies Act. Consequently, on the Co-operative Society taking over the canteen, the management of the canteen vested in the President and

members of the Board of Directors of the Society. The Society incurred huge losses and eventually it ceased to function and the services of the

employees were terminated. The employees contended that since the first respondent is statutorily bound to maintain a canteen, the employees are

entitled to seek re-employment with the first respondent. The third respondent has rejected the contention pointing out that the obligation of the first

respondent under the Factories Act was fulfilled when it provided a canteen on a co-operative basis with the participation of the workers. But

when the canteen run by the co-operative Society, incurred huge losses and was closed by the society, the management is not under an obligation

to run the canteen again on a co-operative basis. Consequently, the third respondent held that the non-employment of the 89 workmen is justified.

It is the correctness of this award which is challenged in these proceedings.

2. The learned counsel for the petitioners would say that under the Factories Act, the first respondent is bound to run a canteen and it cannot

escape its obligation by contending that it originally started a canteen and subsequently entrusted its management to a co-operative society and

when the co-operative society incurred huge losses and became defunct, it is not bound to revive the co-operative society or take back the

workers and run the canteen. I am unable to agree with this contention, because it proceeds on a misconception. It is one thing to say that the first

respondent is bound to run a canteen under S. 46 of the Factories Act. But it is another thing to say that when the canteen run by the co-

operative society became defunct, the first respondent is bound to provide employment to the workmen. As soon as the management of the

canteen was entrusted to the co-operative society and it became a distinct entity by itself, the obligation of the first respondent to provide

employment for the workmen in the canteen ceased to have effect. As pointed out by the third respondent, merely because the President of the

Co-operative Society which ran the canteen is an employee of the first respondent, it cannot be said that the first respondent itself was the

employee of the workers in the canteen and therefore it is bound to provide employment to them, in spite of the closure of the canteen by the

society.

3. For the reasons aforesaid I am of the opinion that the petitioner has not made out a case for a rule nisi being issued and the petition will stand

dismissed.