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**(1968) 09 MAD CK 0014**

**In the Madras High Court**

**Case No :** Writ Petition No's. 3463 and 3464 of 1967

T.V. Sundaram Iyengar and Sons (P) Ltd. by Managing  
Director, T.S. Krishna, Madurai

**APPELLANT**

**Vs**

State of Madras and Others

**RESPONDENT**

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**Date of Decision :** 19-09-1968

**Acts Referred:**

Constitution of India, 1950 — Article 245, 246  
Industrial Disputes Act, 1947 — Section 10(1), 2A, 33C

**Citation :** AIR 1970 Mad 82 : (1971) 22 FLR 105

**Hon'ble Judges :** Kailasam, J

**Bench :** Single Bench

**Advocate :** V.K. Thiruvengkatachari, for A.R. Ramanathan and P. Vedavalli, for the Appellant; Government Pleader, K.V. Sankaran, N.T. Vanamamalai, R. Ganesan, S. Ramaswami, S.T. Ramalingam and S. Shakir, for the Respondent

**Final Decision :** Dismissed

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## **Judgement**

Kailasam, J.—These two writ petitions are filed by Messrs T. V. Sundaram Iyengar and Sons (P) Ltd., by its Managing Director, Sri T. S.

Krishna. The third respondent was employed as an apprentice in the company from 1-5-1964 under order dated 29-4-1964 for a specific period

of twelve months. After the period of apprenticeship, the third respondent was taken as a probationer under a fresh contract of service as a

Prabationary Technical Assistant with effect from 1-5-1965. There was an enquiry regarding the misconduct of the third respondent, and his

probation was terminated by an order dated 3-2-1968. The Labour Officer, Tirunelveli, sent a conciliation report on 31-12-1966 to the

Government and on consideration thereof, the Government passed its order dated 24-2-1967 declining to make a reference. Subsequently, on 6-

7-1967 the Government referred the matter for adjudication.

2. In these petitions the main contention that is raised is that Section 2-A of the Industrial Disputes Act, 1947, is ultra vires and void and

violative of Arts. 14 and 19 of the Constitution of India. As the validity of a Central enactment was questioned, notice was given to the Attorney

General and the matter comes up for final disposal.

3. Mr. V. K. Thiruvengkatachari, learned counsel for the petitioners, submitted that Section 2-A of the Industrial Disputes Act is beyond the

legislative competence of the Parliament. Section 2-A of the Industrial Disputes Act runs thus:--

Where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference

between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination, shall be deemed

to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute".

By the amendment, a dispute between a workman and his employer is deemed to be an industrial dispute notwithstanding that no other workman

nor any union of workmen is a party to the dispute. Before the introduction of this amendment, "industrial dispute" was defined u/s 2(k) as meaning

any dispute or difference between "employers and workmen". Industrial dispute between employers and workmen had been understood as

something more than an individual dispute between a worker or a few workers and the employer. It must be a collective dispute, a dispute

between the employer on the one hand and the entire establishment or a part of the establishment on the other hand in which case it is reasonable

to presume that at least a substantial number of the employees in the establishment as a whole or in the concerned part of the establishment should

be at dispute --vide The Kandan Textile Ltd. Vs. The Industrial Tribunal (1) and Others, . The same view is taken in R. v. Industrial Disputes

Tribunal, 1957 2 All ER 776 that the dispute should be between a body of workmen and the management and not merely a dispute between a

single workman and his employer. By this amendment, a dispute between a single workman and the management is deemed to be an industrial

dispute.

4. The contention of Mr. V. K. Thiruvengkatachari, the learned counsel for the petitioners, is that Parliament has no power to convert an individual

dispute into an industrial dispute. Entry 22 in List III, Seventh Schedule of the Constitution of India is ""Trade Unions; industrial and labour

disputes"". It is submitted that the term ""Industrial Dispute"" has acquired a specific meaning in law as a dispute between a body of workmen and the

management and Entry 22 in List III cannot be construed as empowering the Parliament to legislate on dispute between a single workman and the

management. Referring to Entry 7, List III, it was submitted that Parliament may legislate regarding "contracts"; but Entry 22 in List III may not be

wide enough to Central Provinces Transport Services Ltd. Vs. Raghunath Gopal Patwardhan, empower Parliament to legislate on individual

disputes also. The meaning of the word ""deemed"" which is used in the amended Section 2-A of the Industrial Disputes Act was relied on for the

submission that it was an admission on the part of the Parliament that what was not an industrial dispute was deemed to be an industrial dispute

notwithstanding that it is not an industrial dispute -- vide ""Words and Phrases Judicially defined,"" Volume II, page 48 Roland Brown.

5. It has been held that the entries in the various lists should be given a wide meaning. In Seth Banarsi Das etc. Vs. Wealth Tax Officer, Special

Circle Meerut, etc., it has been held that the Court must Interpret the relevant words in the entry in a natural way and give the said words the

widest interpretation. What the entries purport to do is to describe the area of legislative competence of the different legislative bodies, and so, it

would be unreasonable to approach the task of interpretation in a narrow or restrictive manner. The Supreme Court held that the word

"individuals" used in Entry 86, List I would include a Hindu undivided family. Giving the term "industrial dispute" a wide and natural meaning, there

is no reason for restricting it to disputes between a body of workmen and the management. A dispute between a single, workman and the

management would also come within the natural meaning of the term "Industrial dispute"". The entry also includes labour disputes. There is no

reason for excluding disputes between individual workman and the employer from the purview of the term "labour disputes"".

6. Dealing with the C. P. and Berar Industrial Disputes Settlement Act (23 of 1947), the Supreme Court observed in C. P. T. Service v.

Raghunath. AIR 1957 SC 104 at p. 109 thus:--

While Act No. 14 of 1947 may be said to be primarily concerned with disputes of labour as a class. Act No. 20 of 1946 is directed to getting the

rights of an employee under a contract defined. Now, as the C. P. and Berar Industrial Disputes Settlement Act No. 23 of 1947 covers the ground

occupied by both Act No. 20 of 1946 and Act No. 14 of 1947, it would be proper to interpret the expression "industrial dispute" therein in a

sense wider than what it bears in Act No. 14 of 1947, so as to cover not only disputes of workmen as a class but also their individual disputes".

Thus, the Supreme Court as accepted the position that the expression "industrial dispute" would also include individual disputes. It is also seen that

in the Industrial Disputes Act, provision is also made for determination of a dispute between an individual workman and the management, such as

Section 33-C(2) of the Act. The plea therefore, that Parliament will have no power to legislate regarding disputes between an individual workman

and the employer has to be rejected,

7. The learned Government Pleader submitted that even if it is conceded for purposes of argument that the amendment would not fall within the

scope of Entry 22, List III, it would in any event fall under the residuary Entry, Entry 97, List I which empowers the Parliament to legislate on any

matter not enumerated in List II or List III, including any matter not mentioned in either of those lists. The submission of the learned counsel for the

petitioners is that if the Entry contemplated only a dispute collectively between the workmen and the management, the residuary entry cannot be

relied on to enable the Parliament to legislate on individual disputes. This contention cannot be accepted, for, the learned Counsel is unable to state

how what does not fall within the entries will not come under the residuary entry. Even if the amended Section 2-A of the Industrial Disputes Act is

held to be not falling under Entry 22, List III, It would certainly fall under the residuary Entry, Entry 97, List I. The main contention of the learned

counsel for the petitioners regarding the legislative competence of the Parliament to legislate Section 2-A of the Industrial Disputes Act therefore,

fails.

8. The plea of the learned counsel for the petitioner that the State Government has no right to make a reference when once it has refused to make a

reference has not been accepted by this Court. In W. P. No. 3436 of 1967 (Mad) the right of the Government to make a reference even after it

had declined to make a reference earlier has been upheld by this Court

9. The last contention of the learned Counsel for the petitioners is on the merits. The learned Counsel submitted that the order of reference is

vitiated by errors apparent on the face of the records. The order of reference states that on a reconsideration of the orders passed in G. T. Rt. No.

396, Industries, Labour and Housing, dated 24-2-1967, the Government have referred for adjudication the dispute about non-employment of

Thiru S. Krishnan. The notification making the reference in G. O. Rt. No. 1231, dated 6th July 1967 is in the following terms:--

Whereas the Government are of opinion that an industrial dispute has arisen between the workmen and the management of T. V. Sundaram

Iyengar and Sons (P) Ltd., Tirunelveli, in respect of matters mentioned in the annexure to this order:--

And whereas, in the opinion of the Government of Madras, it is necessary to refer the said dispute for adjudication Now, therefore, in exercise of

the powers conferred by Section 10(1)(c) of the Industrial Disputes Act, 1947 (Central Act 14 of 1947), the Governor of Madras hereby directs

the said dispute be referred for adjudication to the Labour Court Madurai"".

The dispute that is referred is--

1. Whether the non-employment of Thiru S. Krishnan is justified and if not to what relief he is entitled.

2. To compute the relief if any awarded in terms of money if it can be computed"".

The submission on behalf of the petitioner is that there is nothing to indicate that the Government was aware of the fact that the dispute was

between an individual workman and the management and as the Government was under the impression that it was a collective dispute between the

workmen and the management of T. V. Sundaram Iyengar and Sons (P) Ltd., the order is vitiated due to the misconception by the Government.

This plea is mainly based on the wording of the notification that an industrial dispute has arisen between the ""workmen and the management"" of T.

V. Sundaram Iyengar and Sons (P) Ltd. I am unable to accept this contention, for, it is clear that what the Government was considering and what it

was referring was whether the non-employment of Thiru S. Krishnan is justified and if not to what relief he is entitled. The plea that the Government

was under the misapprehension that the dispute was collectively between the workmen and the management is not borne out from the documents.

It is clear that the Government was dealing with the dispute which related to the dismissal of Thiru S. Krishnan and they referred that dispute.

As the reference is competent after the introduction of Section 2-A of the Industrial Disputes Act, the legality of such a reference cannot be

questioned. It was also pointed out that another error committed in the notification is that the report of the Labour Officer is referred to as the

conciliation report. The report of 6-4-1967 is not a conciliation report. It is only the remarks of the Labour Officer on the petition dated 6-3-1967

of Thiru S. Krishnan. It is conceded by the Government that this is an error. But I do not think that this error would in any way vitiate the order of

reference. All the contentions raised by the learned counsel for the petitioner fail and these writ petitions are dismissed with costs. Advocate's fee

Rs. 200 one set for both the cases.