
(1966) 01 AP CK 0006
In the Andhra Pradesh High Court

Uggamraj

APPELLANT

Vs

State of Andhra Pradesh and Others

RESPONDENT

Date of Decision : 25-01-1966

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1967) 2 LLJ 780

Hon'ble Judges : Sharfuddin Ahmed, J

Bench : Single Bench

Judgement

Sharfuddin Ahmed, J.—This is a petition under Article 226 of the Constitution to quash the award made by the presiding officer, labour court, Hyderabad, in regard to a dispute between the workmen of Rajeswari Talkies, Secunderabad, and the management of the said talkies. The award produced is printed at p. 1528 of Andhra Pradesh Gazette, Part I, dated 23 April 1964. The dispute between the management and the workmen of Rajeswari Talkies, Secunderabad, was referred to the labour court, Hyderabad, by the Government under G.O. Ms. No. 537, Home (Labour-I), dated 16 March 1963. It pertains to the dismissal of one Ratnam and discharge of eight workers whose names are mentioned In the said award.

2. The case of the management was that Ratnam had left voluntarily his service in October 1961, and that Acharya and David left their services in December 1962. They further contended that the other workmen had left the theatre voluntarily on 31 December 1962; while the workmen pleaded that their services had been terminated by the management without notice. The labour court on evidence found that the three workmen, viz., Ratnam, Acharya and David, had voluntarily left their services. In regard to Ratnam it was observed that he voluntarily stopped coming to the theatre in view of his misappropriating the moneys entrusted to him by Mrs. Anthayya, wife of the proprietor. In respect of Acharya and David, the conclusion was that they have gone out of service of their own aboard and there was no question of the management terminating

their services. In respect of the six workmen, viz., Srinivasulu, G. Mallayya, Nizamuddin, Sirajuddin. Mali Mallayya and Mrs. Pillamma, the labour court concluded that there was nothing to show that they had left their services voluntarily and the management had not stated anything against the conduct of these workmen nor they were guilty of any misconduct. It, therefore, directed that as the management was not Justified in terminating their services the six workmen have to be reinstated by the management with back-wages from 1 January 1963 onwards till their reinstatement.

3. It is this order that is sought to be quashed by the management mainly on two grounds; first, the conclusion of the labour tribunal that there Is no allegation that the six workers mentioned above left the services voluntarily is incorrect on the fore of It and secondly, that there was no Industrial dispute between the contending parties within the meaning of the term In the Industrial Disputes Act.

4. So far as the first contention is concerned, the attention of this Court was Invited to the counter-statement filed by the management before the labour court. In Paras, (c), (d) and (f), certain allegations were made against these six workers. in Para. (f) it was stated that the six workers absented themselves from duty from 30 December 1962; they had been committing prejudicial acts on the premises and once resorted to violence before charges were framed against all of them and they were served with a show-cause notice by registered post, etc. In the additional counter In Para. 8, this position was reiterated by stating that all the six workers had committed breach of discipline by abusing one representative of Navayuga Films who had come to the theatre on his official duty. The observation of the presiding officer of the labour court, therefore, that there are no statements by the management against the conduct of the six workers, may not be strictly correct. But, as urged by the learned Counsel for the respondents, the manager of the talkies who has been examined as M.W. I has not chosen to say a word against the workers In his lengthy statement running about thirteen pages. Obviously the reference by the presiding of floor of the labour court is to the statement of the manager when he remarked that the manager has not stated anything against any of these workers. The respondents In their counter denied the charges made against them. It was therefore, Incumbent on the management to adduce evidence to show that the workers had been guilty of misconduct. The failure of the manager to give a statement to that effect or adduce any evidence In that regard, would necessarily warrant the conclusion that apart from the allegation, there was nothing to substantiate the charges. The conclusion of the presiding officer of the labour court, therefore, that the management has not stated anything against the conduct of the workers, la not entirely unfounded. Even otherwise the order of the presiding officer could not be quashed merely on his omission to take into notice certain allegations made In the counter.

5. The next point that is urged with some vehemence is that there was no

industrial dispute and as such the labour court had no jurisdiction to go into the dispute between the parties and the award is silent on this point. The learned Counsel for the petitioner has contended that this matter was urged before the labour court and even in the counter filed before the said court, it was mentioned that it was illegal to refer the matter to the labour court and the proceedings were without jurisdiction. The objection is founded on the fact that the cause of the workers was neither espoused by any union nor the workers had passed any resolution. The resolutions on record pertain only to the termination of the services of Ratnam. They did not refer to the termination of the services of these six workers. The fact cannot be denied that there is no resolution to espouse the cause of the workers; but under the Industrial Disputes Act, "industrial dispute" has been defined as under;

2. (k) "industrial dispute" means any dispute or difference between employers and employees or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment of the terms of employment or with the conditions of labour, of any person.

It has been held then when the dispute is espoused by a substantial number of workmen even if it is not supported by any union, it assumes the form of an industrial dispute. In the instant case, according to the management, the number of workers in the Rajeswari Talkies was never more than 24, the cause of these six workmen is espoused by as many as 14 workmen out of 24. It could, therefore, be said that a sizable number of workers have espoused the cause of the workers and as such it assumed the form of an industrial dispute. Further, it is to be noted that the manager of the Rajeswari Talkies examined as M.W. 1 has not spoken a word about the jurisdiction of the labour court to entertain the dispute. The case of workmen has been referred by the Government at their instance and has been disposed of by a competent tribunal after hearing both sides and on evidence. As stated above, the jurisdiction of the labour court has not been seriously challenged and obviously for that reason the tribunal has not chosen to specifically deal with it.

6. In these circumstances, I find it difficult to interfere with the finding of the labour court on that ground. It has been repeatedly held that once it is shown that a body of workmen either acting through their union or otherwise, has espoused the workmen's cause, it becomes an industrial dispute vide *The Newspapers Ltd. Vs. The State Industrial Tribunal, U.P., and Newspapers Ltd., Allahabad Vs. U.P. State Industrial Tribunal and Others*, accordingly the writ petition is dismissed with costs for respondents 1 and 2. Advocate's fee Rs. 100.