
(1960) 04 MAD CK 0027
In the Madras High Court

Vijaykumar Mills, Ltd.

APPELLANT

Vs

Labour Court and Another

RESPONDENT

Date of Decision : 07-04-1960

Acts Referred:

Constitution of India, 1950 — Article 226
Industrial Disputes Act, 1947 — Section 2, 25C

Citation : (1960) 04 MAD CK 0027

Hon'ble Judges : Ramachandra Ayyar, J

Bench : Single Bench

Judgement

Ramachandra Ayyar, J.—This is a petition under Article 226 of the Constitution to call for the records in claim petition No. 291 of 1958, on the file of the labour court, Madurai, and quash the order dated 6 January 1959 passed thereon.

2. The respondent 2, Palanlswami, was one of the workers, who was in the service of the mills from 2 July 1956. It is stated on behalf of the management that he joined as a temporary band at the beginning and two months later he was taken as a learner. He continued to work in that capacity till 31 May 1957. During that period his name was entered in the muster rolls of the mills under the heading "learner." After June 1957 till February 1958 he was regularly working in the mills but his name was included in the list of workers mentioned in the muster rolls as " badli workers." It is the case of the respondent 2 that he was laid off from June 1958 till 6 July 1958 due to a cut in the electricity. As during that period he was not paid any compensation u/s 25C of the Industrial Disputes Act he applied to the labour court, Madurai, for an order under that section. The management contested the petition on the ground that the respondent 2 was only a badli worker and that he was not entitled to the lay-off compensation. There was also an objection to the maintainability of the petition; it is not necessary to consider that point as the same has not been pressed before me.

3. The labour court upheld the claim of the respondent 2 and ordered the

management to pay the sum of Rs. 33.88 nP. Aggrieved by that order, the management has filed an application under Article 226 of the Constitution for quashing the order of the labour court.

4. I do not consider that the discretionary jurisdiction of this Court under Article 226 should be exercised in the particular case having regard to the fact that the subject-matter of dispute is only a sum of Rs. 33.88 nP. and the only question involved related to a single worker as to whether he was a badli or not. However, in view of the strenuous argument of Mr. M.R. Narayanaswami for the petitioner, I shall briefly give my conclusion on the merits of the petition.

5. It is not disputed that the workman was laid off during that period complained of. The only question is whether he is entitled to the lay-off compensation u/s 25C of the Industrial Disputes Act. Under that provision a badli worker would not be entitled to a lay-off compensation. Who a badli worker is defined in the explanation to Section 25C:

Badli workman means a workman who is employed in an industrial establishment in the place of another workman whose name is borne on the muster rolls of the establishment, but shall cease to be regarded as such for the purposes of this section, if he has completed one year of continuous service in the establishment.

It will follow from the definition that a workman could not be held to be a badli simply because the management has chosen to describe him as a badli workman in the muster rolls. The essence of the explanation is that the badli worker's name should not be found in the muster rolls, but a badli worker, should act for some other worker whose name is found in the muster rolls. Secondly, even if he were a badli workman properly so called, he will cease to be regarded as such if he had completed one year of continuous service in the establishment. It is unnecessary to consider for the purpose of the present case whether the workman concerned has been in continuous service of the management for more than a year as I am satisfied that he has not been shown to be a badli worker within the first limb of the explanation mentioned above. Section 2(kkk) defines what a lay-off means. A lay-off would mean the failure, refusal or inability of an employer to give employment to a workman whose name is borne on the muster rolls of his industrial establishment by reason of the fact that there has been a shortage of power, etc., or any other reason. Section 25C gives the right to a workman to lay-off compensation. Any person whose name is found in the muster rolls of the employer would be deemed to be a workman entitled to the lay-off compensation. In the present case it is admitted that the respondent 2's name is mentioned in the muster rolls of the petitioner. The fact that he along with certain others was classified as a badli worker would not render the name any the less one in the muster rolls. As I pointed out above, the explanation to Section 25C indicates that a worker in order to come within the terms badli workman should not be one whose name is found in the muster rolls. What therefore decides the right to lay-off compensation is the fact of the particular worker's name being found in the muster rolls and not how he is described

therein. I am not therefore satisfied that the worker in the Instant case is a badli within the meaning of the term in Section 25C. His name being found In the muster rolls of the mills, he would be entitled to the lay-off compensation.

6. The rule nisi is discharged. The petition is dismissed with costs. Counsel's fee Rs. 100.