
(1986) 01 KAR CK 0027
In the Karnataka High Court
Case No : W.A. No. 2797/85

Workmen of Binny Ltd.

APPELLANT

Vs

Management

RESPONDENT

Date of Decision : 08-01-1986

Acts Referred:

Karnataka Industrial Establishments (National and Festival Holidays) Act, 1963 —
Section 3

Citation : (1986) ILR (Kar) 519 : (1986) 1 KarLJ 370 : (1986) 1 LLJ 468

Hon'ble Judges : K. Jagannatha Shetty, Acting C.J.; N.D. Venkatesh, J

Bench : Division Bench

Judgement

Jagannatha Shetty, Ag. C.J.

1. This Writ Appeal raises a short but an interesting question as to the number of holidays to be declared by the State Industrial undertakings. The question is :

Whether, after the amendment to S. 3 of the Karnataka Industrial Establishments (National and Festival Holidays) Act, 1963, by Act No. 7/85, the employees of the Industrial undertakings are entitled to have 1st day of May as a holiday, in addition to the other approved holidays.

The Industrial establishment concerned in this appeal is Binny Mills Ltd. Bangalore. The management has declared three national holidays and eight other festival holidays in regard to the workmen employed in the Mills. The declaration of these holidays is governed by the Karnataka Industrial Establishments (National and Festival Holidays) Act, 1963 (Shortly "the Act").

Section 3 of the Act provides :

"3. Grant of National and Festival Holidays - Every employee shall be allowed in each calendar year a holiday of one whole day on the 26th January, the 15th August and the 2nd October and five other holidays each of one whole day for such festivals as the Inspector may, in consultation with the employer and the

employees, specify in respect of any industrial establishment."

This section came to be amended by Karnataka Act No. 7/85 as follows :

"2. Amendment of S. 3 - In S. 3 of the Karnataka Industrial Establishment (National and Festival Holidays) Act, 1963 (Karnataka Act 24 of 1963), for the word "five", the word "six" shall be substituted, and at the end, the following proviso shall be inserted, namely :-

"Provided that the first day May shall be one of the said six other holidays except in the case of Industrial establishments owned or controlled by the Government of India."

2. The management thereupon approached the Labour Officer, Respondent-2 herein, to revise the list of holidays for the year 1984 including 1st May as a holiday in place of any one of the festival holidays already approved for the year 1984. The Labour Officer did not agree with the suggestion of the management. He held that the management could not disturb the list of holidays already approved for the year 1984 and it should declare 1st May, 1984 as an additional holiday. He thereby increased, the total number of holidays for year 1984 from eleven to twelve.

3. The management challenged the decision of the Labour Officer in the Writ Petition referred to above. There were like Petitions by other industrial undertakings questioning the similar decision taken by the Labour Officer. The Learned Single Judge by a common order dated August 22, 1985 allowed those Petitions holding that under S. 3, as amended by the Karnataka Act No. 7/85, the establishments are not required to increase the number of holidays for workmen, although they are bound to declare 1st May as one of the holidays.

Being aggrieved by the order of the Learned Single Judge, the Union representing the workmen of the Mills has preferred this Writ appeal.

4. We heard Mr. Subba Rao for the appellant and Mr. Kasturi for the Management. In our opinion, the view taken by the Learned Judge appears to be justified. We do not think there is any other view possible. Before the amendment to S. 3 of the Act, it was obligatory for the management to give its workmen three national holidays specified in that Section and atleast five other holidays. The minimum number of holidays which the management then, under law, ought to give was eight. After the amendment, the word "five" in S. 3 has been substituted by the word "six" with the following proviso :

"Provided that the first day of May shall be one of the said six other holidays except in the case of Industrial establishments owned or controlled by the Government of India."

The provisions of the amended Section are clear and unambiguous. The proviso to S. 3 makes it abundantly clear that the 1st day of May shall be one of the said six other holidays which the management is obliged to declare. It does not state

that first day of May should be in addition to those six other holidays.

5. Even the statement of objects and reasons for introducing the amendment to S. 3 of the Act does not lend support to the contention urged for the appellant. It reads :

"In his Budget speech during 1982, the Chief Minister announced Government's intention to declare the 1st day of May as a paid holiday for industrial workers in the State.

When the Government of India were approached for obtaining the previous instructions of the President for amending S. 3 of the Karnataka Industrial Establishments (National and Festival Holidays) Act, 1963, they informed that they were not agreeable to the day being declared a holiday in respect of establishments owned or controlled by the Government of India.

It is therefore considered necessary to declare 1st day of May as a paid holiday for industrial workers in the State of Karnataka except in respect of establishments owned or controlled by Government of India."

We are, therefore, firmly of the opinion that the management is not obliged to increase the number of holidays by one more day.

6. We accordingly reject the appeal.