(1958) 11 MAD CK 0023

Madras High Court

Case No: Writ Petition No. 461 of 1958

The Management of Kammavar Achukudam Ltd., Coimbatore and Others		APPELLANT
	Vs	
The Industrial Tribunal, High Court Buildings, Madras and Another		RESPONDENT

Date of Decision: Nov. 18, 1958

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Section 151
- Industrial Disputes Act, 1947 - Section 15, 36A

Citation: AIR 1959 Mad 364 : (1959) 1 LLJ 395 : (1959) 72 LW 332

Hon'ble Judges: Balakrishna Ayyar, J

Bench: Single Bench

Advocate: M.R. Narayanaswami, for the Appellant; G. Ramanujam, for Addl. Govt. Pleader, S. Mohan Kumaramangalam and B. Lakshminarayana Reddi, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

Balakrishna Ayyar, J.
This is a petition for the issue of an appropriate writ to quash an order of the Industrial Tribunal, Madras, dated 2-6-

1958. The relevant facts are these : Disputes arose between the managements of some printing presses in Coimbatore and their employees in

respect of three matters, In G.O. Ms. No. 2802 (Industries, Labour and Co-operation) dated 23-8-1957, the Government of Madras referred

these disputes for adjudication to the Industrial Tribunal, Madras. On 29-1-1958 the Tribunal passed an award, which was published in the Fort

St. George Gazette dated 12-2-1958. The Tribunal fixed the same time scale of pay for compositors and machinemen. It fixed different scales of

pay for other classes of workers. Dealing with the question of what has been described as service weightage the Tribunal directed,

For service weightage, the workers shall be deemed to have started on the scales as now fixed and one increment granted for every three years of

service; but if any worker is already drawing more pay, it will of course remain unaffected. If the pay of any worker does not exactly fit into the

present scales, he will be allowed to draw the next higher increment.

2. Differences arose between the workers and the managements as to the meaning of this passage, Without going into details the difference

between their points of view may be thus indicated. The workers wanted that the pay which a workman got on the date on which the award took

effect should be deemed to be his initial pay, that his years of service should be counted and that the weightage due on that account should be

determined and that the increments that would accrue on this basis should be added to his initial pay and that the aggregate should be regarded as

the pay to which he was currently entitled: According to the management, the initial pay of the workman would be the initial pay in the new time

scale fixed by the Tribunal.

One illustration will make the position clear. Take the case of a compositor with 12 years of service, who was, on the date on which the award

took! effect, getting a pay of Rs. 55 and a dearness allowance of RS. 25. For his 12 years of service, he would be entitled to four increments,

according to the formula laid down by the Industrial Tribunal. The initial pay of a compositor in the new time scale fixed by the Tribunal is Rs. 35.

According to the management, this compositor will be entitled to Rs. 35 plus increments of 2 X 4, that is to say, Rs. 43. But as he was already

getting Rs. 55, that amount would not be touched. He would go on to the stage in the time scale nest above Rs. 55. According to the workers,

however, his pay should be computed in this manner. His initial pay should be taken as Rs. 55. To that must be added four increments on account

of his 12 years of service. At that stage the annual increment provided for in . the time scale is Rs. 2 1/2. Therefore, according to the workers, the

compositor in question would be entitled to a basic pay of Rs. 65.

3. On 19-2-1958, the association of workmen wrote to the managements calling upon them to implement the award the Tribunal has passed.

Some days later the managements sent a reply, which made it clear that the workmen and the managements disagreed about the interpretation of

the award. So, on 23-4-1958, the workmen filed a petition before the Industrial Tribunal requesting it to clarify the order it had passed. The

management contended that the Tribunal had no jurisdiction to entertain the petition. The Tribunal overruled that objection and passed the order,

which is now sought to be quashed. So far as that order is concerned, it is sufficient to say that in substance it upheld the construction put upon the

award by the workmen.

4. Mr. Narayanaswami, the learned counsel for the petitioner, raised two contentions. The first was that after the Tribunal had passed its award in

pursuance of the reference made in G.O. No. Ms. 2802 (Industries, Labour and Co-operation) dated 23-8-1957, it became functus officio and

had no power whatever to do anything more in the matter. His second contention was that, though the Tribunal merely purported to clarify its

award, in substance it materially amended the award. Even if the Tribunal had any power to clarify, it could not under the guise of clarification alter

the award it had already made.

5. It seems to me that the first contention of Mr. Narayanaswami is well taken and must be upheld. The Industrial Tribunal is a creature of statute,

and it has no powers except those conferred by the statute either expressly or by necessary implication. Whatever power it seeks to exercise must

be traceable in the final instance to the statutes which brought it into existence and clothed it with power and authority. In this respect a statutory

Tribunal differs from the ordinary Civil Courts. So far as these Courts are concerned, their inherent powers are expressly saved by Section 151 of

the Civil Procedure Code. No such provision exists in the enactments setting up the Industrial Tribunal and conferring powers to it. The objection

of Mr. Narayanaswami derives strength from the fact that the Industrial Disputes Act of 1947, makes express provision to deal with a situation of

this kind. Section 36-A of that Act, 1947i provides :

36-A. Power to remove difficulties : (1) If, in the opinion of the appropriate Government, any difficulty or doubt arises as to the interpretation of

any provision of an award or settlement, it may refer the question to such Labour Court, Tribunal or National Tribunal as it may think fit.

(2) The Labour Court, Tribunal or National Tribunal to which such question is referred shall, after giving the parties an opportunity of being heard,

decide such question and its decision shall be final and binding on all such parties."" The existence of this specific provision enabling the appropriate

Government to refer, to a Labour Court or Industrial Tribunal doubts arising about the interpretation of any provision in an award is inconsistent

with the assumption that the Tribunal has any inherent powers in that regard. If it had such powers, it goes without saying that it would have been

unnecessary to make this provision in the Act.

6. Mr. Mohan Kumaramangalam did not dispute that the Industrial Tribunal has no power to review its own order. But he contended that it hat

power to clarify its order and to explain what it meant to say. I am unable to agree. To say that the Industrial Tribunal has the power to ""explain"" or

clarify"" is tantamount to saying that it has the power to interpret its own order. But it seems to me that the power to interpret the order must be left

to those Courts or authorities which are called upon to implement or execute that order. The word ""clarify"" is really only an euphemism for the

word ""interpret"". The power to interpret can be exercised and by those who are called upon to implement the award.

When the assistance of any of the authorities set up u/s 33-C of the Act is invoked by either party it will be for that authority to interpret the award

and try to ascertain what exactly the Tribunal has said. The Tribunal expressed the view ""It cam not be denied that every judicial tribunal has

inherent jurisdiction to interpret or clarify its own judgment if there is any doubt as to its meaning."" I am unable to accept this view as correct. As I

have tried to explain, the Industrial Tribunal is a creature of the statute and it has no powers except those which can be traced to the statute. And

the statute does not confer on it power to clarify its own order.

7. The petitioner is entitled to succeed on this ground alone. That being so the other question raised by Mr. Narayanaswami does not arise. The

petition is allowed, and the rule nisi made absolute. There will he no order as to costs.