

(2011) 07 MAD CK 0171

Madras High Court

Case No: Writ Petition No. 9676 of 2011

G. Selvaraj and Others

APPELLANT

Vs

The Presiding Officer
Labour Court and The
Management of GTK
Textiles Private Limited

RESPONDENT

Date of Decision: July 28, 2011

Acts Referred:

- Industrial Disputes Act, 1947 - Section 33(2)

Citation: (2011) 07 MAD CK 0171

Hon'ble Judges: K. Chandru, J

Bench: Single Bench

Advocate: G.B. Saravanabhavan, for the Appellant; K. Kalyanasundaram, for 2nd Respondent, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

K. Chandru, J.

The Petitioners are workmen employed by the second Respondent/textiles. They had filed claim petitions before the first

Respondent/Labour Court, Coimbatore in C.P. Nos. 83 to 85, 87 to 95, and 97 to 100 of 2007 claiming wages for the period of unemployment.

Their claim was based upon the fact that they were terminated from service while a dispute was pending before the first Respondent/Labour Court

in I.D. No. 99 of 2004. The said industrial dispute relates to whether the action of the second Respondent/Management in not providing

employment to the workmen even though they are ready and willing to work and not operating the mill with effect from 18.5.2003 is justified and if

not, what relief they are entitled to.

2. Even while the dispute was pending, the Petitioners were terminated from service by order dated 26.5.2006. The dismissal was preceded by a

domestic enquiry. The claim of the Petitioners was that since no approval was obtained from the first Respondent/Labour Court in terms of Section

33(2)(b) of the Industrial Disputes Act, their termination is void ab initio and therefore, in the light of the judgment of the Supreme Court in Jaipur

Zila Sahakari Bhoomi Vikas Bank Ltd. v. Ram Gopal Sharma, [2002] 2 SCC 244, they are entitled to wages. The Labour Court numbered their

petitions and assigned various claim petition numbers and notice was ordered to the second Respondent.

3. The second Respondent filed a counter statement stating that they had already filed approval petitions before the Special Industrial Tribunal,

Chennai, wherein a collective dispute of the workers of all textile mills is pending as I.D. No. 1 of 2002 at Chennai and their approval petitions

were numbered as A.P. Nos. 14 of 2006 and 21 of 2006, which are also pending enquiry by the Tribunal and therefore, it was submitted that

since they have already moved one Tribunal seeking approval, there is no question of filing fresh cases before other Tribunals, wherein there may

be cases pending. In essence, the stand of the second Respondent was that they are entitled to file approval petition before one of the forum in

which dispute was pending.

4. Before the Labour Court, on the basis of a joint memo, a joint trial was conducted and common evidence was let in. On the side of the

workmen, 44 documents were filed and marked as Exx.W1 to W44. On the side of the second Respondent, 23 documents were filed and

marked as Exx.M1 to M23. While no oral evidence was let in by the workmen, the Manager of the second Respondent/Mill by name

Bangarusamy was examined as M.W.1.

5. The Labour Court, on an analysis of the evidence placed before it, came to the conclusion that the premises under which the claim petitions are

filed is not valid. Even though the Petitioners can take advantage of the judgment of the Constitutional Bench of the Supreme Court in Jaipur Zila

Sahakari Bhoomi Vikas Bank case, supra, there is no occasion for applying the principle laid down therein, since the second Respondent

themselves have filed approval petitions and even today it is admitted by the learned Counsel for the Petitioners that the same are pending. It is

only in cases where the approval petition u/s 33(2)(b) of the Industrial Disputes Act is not filed, the question of termination becoming void ab initio

would arise.

6. The Labour Court has also rightly applied the principle laid down in Strawboard Manufacturing Co. Vs. Gobind, , wherein it was held that an

approval petition has to be filed in one of the forum in which either conciliation or dispute is pending and not in all the forums. Even Straw Board

Manufacturing Company case, supra, came to be quoted with approval in Jaipur Zila Sahakari Bhoomi Vikas Bank case, supra. The Labour

Court, after holding that the claim petitions were premature and invalid, held that the petitions were to be rejected. At the same time, the Labour

Court reserved the right of the workmen to claim their relief after the disposal of the approval petitions in I.D. No. 1 of 2002 before the Special

Industrial Tribunal, Chennai.

7. There is no illegality or infirmity in the order passed by the Labour Court. It is not a fit case where the writ petition can be maintained impugning

the order of the Labour Court. This writ petition is dismissed. No costs.