
V. Veeramani Vs Management of Madurai District Cooperative Supply and Marketing Society Ltd. and Another

Civil Appeal No. 8269 Of 1983

Court: Supreme Court of India

Date of Decision: Sept. 7, 1994

Citation: (1995) 3 SCC 557 Supp

Hon'ble Judges: P. B. Sawant, J; Faizan Uddin, J

Bench: Division Bench

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

1) The question of law whether the industrial dispute survives after the death of the workman has been answered by this court in favour of the

workman in Rameshwar Manjhi v. Sangramgarh Colliery. By referring to the decisions of the various High courts on the subject, the court has not

agreed with the contrary view taken by some of the High courts and has stated its conclusion in para 18 of the judgment, as follows:

18. We, therefore, hold that on the death of the workman, even when the reference is of an individual dispute under Section 2-A of the Act, the

Tribunal does not become functus officio or the reference does not abate merely because, pending adjudication, the workman concerned dies. It is

open to the heirs and legal representatives of the deceased workman to have the matter agitated and decided.

2. The relevant facts in the present case are that the petitioner's father was employed with the respondent Cooperative Society as Senior Clerk

in charge the godown of the Society from 1944. A shortage was found in the stock during the period from 26/4/1966 to 5/5/1966, and hence on

13/9/1967 an inquiry was conducted against him. This was followed by the dismissal order on 18/12/1967 which; stated that the employee ""is

dismissed with retrospective effect from 20-6-1967". It is not necessary for us to express any opinion on the said order at this stage on the

question whether an order of dismissal could be passed with retrospective effect as was done by the respondent-Society. The employee raised an

industrial dispute with regard to his wrongful dismissal on 21/4/1970 under Section 2-A of the Industrial Disputes Act and ultimately it was referred

to the Labour court. The Labour court by its decision dated 14/11/1972 held that the domestic inquiry conducted was a farce. It appears,

however, that in the meanwhile the Society had filed an application to the Labour court for permission to lead evidence before it in case the inquiry

was found to be defective. By the very same order, therefore, the Labour court permitted the Management to lead evidence before it to prove the

charges against the employee. Unfortunately, within about two months thereafter, on 26/1/1973, and before the Labour court could take the

evidence, the employee died. The appellant as legal representative of the employee filed an application before the Labour court for impleading him

as a party to the proceedings to prosecute the Reference. The Labour court by its order of 6/6/1973, dismissed the said application holding that in

view of the death of the workman the cause of action and the Reference did not survive. Against the said decision, the appellant preferred a writ

petition before the High court. The learned Single Judge by its decision on 1/9/1976 upheld the order of the Labour court and dismissed the

petition. The writ appeal Filed by the appellant against the said decision also met the same fate under the impugned order. The division bench has

obviously taken a view which as is pointed out above has since been reversed by this Court in the aforesaid judgment in Rameshwar Manjhi case.

What is more it appears that in the meanwhile the Act was also amended by inserting sub-section (2-A) in Section 10 of the Act, the relevant last

proviso to which reads as follows:

PROVIDED also that no proceedings before a Labour court, tribunal or National tribunal shall lapse merely on the ground that any period

specified under this Ss. had expired without such proceedings being completed.

That amendment came into force from 21/8/1984. The objects and reasons for introducing the said proviso states as follows:

The RE have been conflicting decisions about the right of legal heirs of a workman in the event of the death of the latter pending proceedings

before the authorities under the Act. Provision is being made to make it clear that pending disputes will not abate in the event of the death of the

workman.

3. THIS makes it clear that although the amendment came into operation from 21/8/1984 the Legislature by the said amendment only wanted to

make clear the law on the subject which according to it was prevalent from the very inception. Thus it is clear that the industrial dispute would

neither abate nor otherwise come to an end merely because the workman who was a party to the dispute had died pending the adjudication of the

dispute.

4. IN the circumstances, we allow the appeal, set aside the order of the High Court and remand the matter to the Labour court, Madurai for

proceeding with the dispute from the stage of the order dated 14/11/1972, according to law. In view of the pendency of the dispute for this long

period the Labour court is directed to dispose of the reference within six months from today.

5. The appeal is allowed with costs.