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Grindwell Norton Ltd. Vs Chairman-cum-Presiding Officer, Industrial Tribunal-cum-Labour Court and Another

Writ Petition No. 25484 of 2005

Court: Andhra Pradesh High Court

Date of Decision: Dec. 27, 2005

Acts Referred:
Industrial Disputes Act, 1947 â€" Section 2, 2A(2)

Citation: (2006) 2 ALD 444 : (2006) 109 FLR 385

Hon'ble Judges: L. Narasimha Reddy, J

Bench: Single Bench

Advocate: C.R. Sridharan, for the Appellant; Government Pleader for Labour for the Respondent No. 1 and M.V. Pratap Reddy, for the Respondent No. 2., for the Respondent

Judgement

@JUDGMENTTAG-ORDER

L. Narasimha Reddy, J.
The petitioner challenges the order, dated 20.9.2005, passed by the Industrial Tribunal-cum-Labour Court,

Anantapur, in I.A.No. 154 of 2005 in I.D. No. 135 of 2003.

2. The 2nd respondent was initially appointed as a general Workman in the year 1979. He is said to have been promoted and designated as

Chargehand in the year 1990, and Senior Chargehand with effect from June 1995. The petitioner terminated the services of the 2nd respondent

through order, dated 10.3.2003. Thereupon, the 2nd respondent approached the Labour Court u/s 2-A(2) of the Industrial Disputes Act, 1947

(for short "the Act").

3. The petitioner filed I.A. No. 154 of 2005 before the Labour Court, with a request to frame an issue, as to the maintainability of the I.D. It was

pleaded that the 2nd respondent was discharging the Supervisory functions, and having regard to the nature of duties and amount of salary, which

he was drawing at the relevant point of time, he cannot be treated as a Workman; and thereby, he was not entitled to raise an Industrial Dispute u/s

2-A(2) of the Act. The application was resisted by the 2nd respondent. Through the impugned order, the Labour Court did not accede to the

request of the petitioner.

4. Sri C.R. Sridharan, the learned Counsel for the petitioner submits that the 2nd respondent cannot be treated as a workman, and in that view of

the matter, it was not competent for the Labour Court to have entertained the I.D. Placing reliance upon several Judgments of the Supreme Court,

particularly the one in Husasan Mithu Mhasvadkar v. Bombay Iron and Steel Labour Board 2001 LLR 1083, he contends that whenever there, is

a doubt about the status of a workman, in the context of definition u/s 2(s) of the Act, the Labour Court is under obligation to resolve that

controversy as a preliminary issue, instead of requiring the Management to undergo the entire ordeal of full trial of the matter.

5. Sri M.V. Pratap Reddy, the learned Counsel appearing for the 2nd respondent, on the other hand, submits that the question as to whether the

2nd respondent is a workman, as defined u/s 2(s) of the Act, can be decided only after extensive evidence is adduced with reference to the nature

of duties etc., and no exception can be taken to the order passed by the Labour Court. He contends that the attempt of the petitioner is only to

protract the proceedings. He too placed reliance upon several Judgments rendered by this Court as well as the Supreme Court.

6. In the Industrial Dispute raised by the 2nd respondent, the petitioner raised a preliminary objection as to its maintainability, on the ground that

the 2nd respondent is not a workman. The petitioner insisted that the controversy be resolved, by framing a preliminary issue.

7. A perusal of the catena of decisions relied upon by both the parties, discloses that there does not exist any hard and fast rule either way. For

example, the Supreme Court in D.P. Maheshwari Vs. Delhi Administration and Others, , disapproved the practice of the High Courts in issuing

directions to the Labour Courts to frame preliminary issues and decide them. In contrast, in Husasan Mithu Mhasvadkar''s case (supra), the

Supreme Court took the view that whenever a doubt is expressed either by the Court or by the Management, as to the status of a workman, in the

context of the, definition u/s 2(s) of the Act, the dispute must be resolved by framing a preliminary issue. Much depended upon the necessary facts,

on the strength of which the corresponding objection was put forward.

8. A perusal of the record, in the instant case, discloses that the 2nd respondent was inducted into service as an ordinary workman. The nature of

promotions or the additional duties assigned to him at subsequent stages can be ascertained, only after the relevant evidence is adduced. In the

ordinary course of things, the preliminary issues are those, which can be decided mostly by referring to the relevant provisions of law, without the

necessity to lead or examine the evidence. Having regard to the fact that the disputed questions of fact viz., the nature of duties and amount of

salary paid to the 2nd respondent, can be resolved only after both the parties adduce evidence, this Court is of the view that the Labour Court can

be required to dispose of the matter finally, but, addressing the issues separately.

9. For the foregoing reasons, the writ petition is disposed of, directing that the Labour Court shall frame an independent issue as to whether the

2nd respondent is a workman within the meaning of Section 2(s) of the Act and answer it independently in the Award, through which the I.D. is

disposed of. Further, it shall be open to both the parties to lead evidence and put forward their respective contentions on this aspect. The I.D. shall

be disposed of within a period of four (4) months from the date of receipt of copy of this order. There shall be no order as to costs.