

Supreme Court of India

Suresh Sakharam Chaugule And ... vs M/S. Parel Cotton Press Factory ... on 6 January, 1993

Equivalent citations: AIR 1994 SC 1246, (1994) ILLJ 525 SC, 1994 Supp (3) SCC 704

Bench: K Singh, B J Reddy

JUDGMENT

1. The appellants were working as "Labadies" in the factory of the respondent. The "Labadies" are the workers who handle raw cotton while it is cleaned and converted into bales by a mechanical process. The appellants were stopped from working in the factory by the respondent with effect from October 18, 1975. Subsequently they were dismissed from service by the order dated January 9, 1976. On the date of dismissal a reference regarding the general demands made by the "Labadies" was pending before the Industrial Tribunal. According to the appellants the dismissal order could not be passed without the approval of the Industrial Tribunal. Since the requisite approval was not sought from the Tribunal a complaint was filed before the Tribunal wherein the dismissal order was challenged. It is not disputed that the management made a statement before the Tribunal that it had withdrawn the dismissal order against the appellants. It is also not disputed that the Industrial Tribunal by its award dated February 10, 1977 held that the appellants were the direct employees of the respondent factory and they were entitled to the minimum wages as applicable at the relevant time.

2. In the above background the appellants moved an application under Section 33C(2) of the Industrial Disputes Act, 1947 (the Act) claiming wages and bonus for the period from October 18, 1975 to November 28, 1979. The application was dismissed by the Labour Court on the ground that there was no specific order by the respondent-factory reinstating them into service and as such there was no subsisting right to invoke the jurisdiction of the Labour Court under Section 33C(2) of the Act. The Labour Court held that simply making a statement before the Industrial Tribunal by the management that the dismissal order against the appellants was withdrawn could not, in the absence of a written order, give them a right to invoke to the provisions of Section 33C(2) of the Act. This appeal was by way of special leave against the said order of the Labour Court dated March 17, 1983.

3. We have heard learned Counsel for the parties. We have been taken through the order of the Labour Court. The Labour Court fell into grave and patent error in refusing to grant wages and bonus to the appellants in the proceedings under Section 33C(2) of the Act. As mentioned above the order of dismissal of the appellants was withdrawn by the management by making a statement before the Industrial Tribunal on May 10, 1976. As a consequence of the said withdrawal the appellants would be deemed to be taken back in service and entitled to all the back wages from the date when they were stopped from working in the factory. The Labour Court was wholly unjustified in rejecting their claim on a technical rather non existent ground that there was no specific order withdrawing the dismissal. The statement made by the management before the Industrial Tribunal stood on a higher footing than any written order which could have been passed by the management in that respect.

4. We allow the appeal set aside the order of the Labour Court dated March 17, 1983 and direct the respondent management to pay the back wages and bonus as claimed by the appellants. The total amount claimed by each of the appellants was Rs. 120,99.72. The management shall deposit the said amount along with 12% interest from the date of the application Under Section 33C(2) of the Act before the Labour Court concerned at Bombay within three months from today. The Labour Court shall disburse the amount to the concerned workmen. The appeal is allowed with costs. We quantify the costs as Rs. 5,000/- to each of the workmen.