

Tamil Nadu Water Supply & Drainage Board

Vs

Tamil Nadu Water Supply & Drainage Board Engineers' Association

(K. Venkataswami, A. P. Misra JJ)

24.03.1998

JUDGMENT

K. VENKATSWAMI J

1. The common question of law that arises for consideration in all these appeals filed against a common judgment of the Madras High Court in Writ Appeal Nos. 1205 to 1210 of 1984 and 250 of 1985, is whether the Tamil Nadu Water Supply and Drainage Board is an institution established not for purposes of profit and consequently excluded from the purview of Section 32(v) (c) of the Payment of Bonus Act, 1965.

2. We have heard learned counsel on both sides and perused the judgment of the Divisions Bench of the High Court carefully and we find that on the facts placed before the Divisions Bench, the conclusions reached thereon cannot be faulted. The learned Judges, after elaborately considering the matter concerning the establishment of the appellant-board and its functions, found as follows:-

"We have no manner of doubt that the respondent-Board has been established to serve the public interest by ensuring better amenities of life and raising the standard of living of the community as a whole. Learned Single Judge has referred to the functions of the Board and its powers and rightly held that the purpose behind the functions of the Board is to provide protected drinking water supply and drainage facilities, but this also cannot be disputed that the Board has got its own assets and liabilities, that it has got its method of recovery of the cost of the scheme, making investment and constituting its funds by "all moneys received by or on behalf of the Board, all proceeds of land or any other kind of property sold by the Board, all charges, all interest, profits and other moneys accruing to the Board and all moneys and receipts", deposited into the public accounts of the Government under such detailed head of accounts as may be prescribed or in the Reserve Bank of India, State Bank of India or any corresponding new bank as defined in the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970. It has thus a scheme of profit and loss. It shall earn profit in some year and lose in another year. Thus, in its commercial activities of sort, it has got a capital structure of profit, liabilities and labour force to care for. We see reason to hold in accordance with the rule indicated by the Supreme Court in the case of Workmen, T.T. Devasthanams Vs. Management (1980 LIC 389) that the Board is an institution designed for profit in the limited sense that when the Government's department found it difficult to run such projects departmentally, they decided to create a Board and transferred the projects to ensure that there was proper service to the community at large on the one hand and on the

other, there was no pressure on the meagres revenue and other resources of the state. Applying the test as above, we have no hesitation in holding that the learned Single Judge has fallen in error in holding that the respondent-Board is an institution established not for purposes of profit. Employees of the Board qualifying for bonus under the Act, in our opinion, are entitled to minimum amount of bonus and/or such amount computed in accordance with law upon the surplus in the accounting year."

3. While reaching the above conclusions, the Division Bench has noticed another judgment of the High Court in Tamil Nadu State Housing Board Vs. Sabanayagam and other cases. The said judgment of the High Court came up before this Court and this court in State of Tamil Nadu represented by Secretary, Housing Deptt., Madras Vs. K. Sabanayagam & Anr. (JT 1997 (9) S.C. 316), has upheld the judgment of the High Court holding that the Tamil Nadu Housing Board was governed by the provisions of the Payment of Bonus Act. In paragraph 16 of the said judgment of this Court, it was observed as follows:-

"We may mention that by a decision of a Bench of two learned Judges of this Court in the case of Housing Board of Haryana Vs. Haryana Housing Board Employees' Union and other (JT 1995 (8) S.C. 37 = (1996) 1 SCC 95) Bonus Act is held applicable to Haryana Housing Board by holding that it is not entitled to statutory exemption from the Act under Section 32 as a local authority. We are informed that accordingly bonus is being paid by the said Board to its employees as per the Bonus Act."

4. It is not in dispute that the appellant has been paying though not in name of bonus every year either in the name of ex-gratia payment or under some other name. No doubt Mr. Krishnamurthy, learned counsel appearing for the appellant-Board, argued at length to persuade us to hold that the appellant-Board will come under the exempted category under Section 32(v) (c) of the Act. However, we are unable to persuade ourselves to take a different view from the one taken by the High Court on the facts as found by it. We are satisfied that the judgment of the High Court does not call for any interference. The appeals fail and are accordingly dismissed with no order as to costs.