

# ANDHRA PRADESH HIGH COURT

Muthe Steels (India) Ltd

Vs.

Additional Labor Court

Writ Petns. Nos. 2357, 2687, 3870, 3876, 4029 and 4030 of 1978

(Alladi Kuppuswami and Mrs. Amareswari, JJ.)

18.10.1978

## JUDGMENT

### **Alladi Kuppuswami, J.**

1. Under Section 7 (1) of the Industrial Disputes Act, referred to in this judgment as "the Act", the appropriate Govt. may by notification in the Official Gazette, constitute one or more Labor Courts for the adjudication of Industrial disputes relating to any matter specified in the Second Schedule and for performing such other functions as may be assigned to them under this Act. Under S. 33-C (2) where any workman is entitled to receive from the employer any money or any benefit which is capable of being computed in terms of money and if any question arises as to the amount of money due or as to the amount at which such benefit should be computed, then the question may, subject to any rules that may be made under this Act, be decided by such Labor Court as may be specified in this behalf by the appropriate Government.

2. Accordingly a notification was made by G. O. Ms. No. 91 S. W. & L. dated 13-2-1957 constituting two Labor Courts one at Hyderabad and the other at Guntur under Section 7 (1) of the Act. By another notification G. O. Ms. No. 694 dated 26-6- 1957 the Government of Andhra Pradesh specified under S. 33-C (2) of the Act the Labor Courts constituted under the earlier G. O. as Labor Court for purposes of S. 33-C (2) of the Act.

3. By G. O. Ms. No. 1155 dated 6-10- 1977 made under S. 7 of the Act, an Additional Labor Court at Hyderabad was constituted for the adjudication of Industrial Disputes relating to any matter specified under the Second Schedule of the Act and in other matters as may be referred or transferred to it from time to time from any other Labor Court. By another notification No. 2 of the same date it was provided as follows :

"Whereas several miscellaneous petitions filed for decision under sub-sec. (2) of Sec. 33-C of the Industrial Disputes Act, 1947 (Central Act 14 of 1947) are pending before the Labor Court, Hyderabad, for a long time owing to heavy number of cases filed before it for decision;

And whereas it is considered necessary to relieve the Labor Court at Hyderabad from some of its pendency by withdrawing from it all the said miscellaneous petitions and transferring them to a newly constituted Additional Labor Court at Hyderabad.

Now whereas in exercise of the powers conferred by sub-sec. (1) of S. 33-B of the Industrial Disputes Act 1947 (Central Act 14 of 1947) the Governor of Andhra Pradesh hereby withdraws all the said miscellaneous petition; filed under subsec. (2) of S. 33-C of the Act pending before the Labor Court at Hyderabad and transfers them to the Additional Labor Court at Hyderabad subject to the direction that the Additional Labor Court at Hyderabad shall proceed to dispose of cases so transferred to it, either de novo or from the stage at which they were so transferred, as it deems fit. All miscellaneous petitions under the said section shall henceforth be filed before the Additional Labor Court."

4. In these writ petitions the jurisdiction of the Additional Labor Court at Hyderabad constituted under the above G. O. to entertain and hear petitions filed under S. 33-C (2) of the Act, is challenged. In other cases we are concerned with applications filed for the first time before the Additional Labor Court. One case relates to an application filed before the Labor Court at Hyderabad but which was returned on the ground that the Labor Court, Hyderabad, ceased to have jurisdiction to entertain the application after G. O. Ms. No. 1155 was passed. As the main question for consideration viz., the Jurisdiction of the Additional Labor Court to entertain the applications under S. 33-C (2) either transferred from the Labor Court Hyderabad or filed before it, is common to all these writ petitions, they have been heard together and are being disposed of by this common judgment.

5. Sri V. Jagannatha Rao, the learned counsel for the petitioner in W. P. No. 2357/78 raised the extreme contention that the Government has no power to constitute more than one Labor Court in relation to any particular area. He submitted that in this case as there is a Labor Court at Hyderabad exercising jurisdiction over all disputes in the Telangana area, the Government had no jurisdiction to constitute an Additional Labor Court for the same area.

5-A. This submission, in our view, proceeds upon a misconception, namely that any particular Labor Court has got something in the nature of territorial jurisdiction. Under S. 7 of the Act it is provided that the appropriate Government may constitute one or more Labor Courts for the adjudication of Industrial Disputes relating to any matter specified in the second schedule and for performing such other functions as may be assigned to them under this Act. This section does not provide for any territorial limits to the jurisdiction of the Labor Courts so constituted. As a matter of fact even in the notification G. O. Ms. No. 91 dated 13-3-1957 all that is stated is that sanction is accorded to the constitution of two Labor Courts one at Hyderabad and the other at Guntur. The notification does not prescribe any territorial limit to the jurisdiction of either of the Courts. It is permissible for the Government to refer any industrial dispute, in whatever territory of Andhra Pradesh it may arise, to any of the Labor Courts, though no doubt for purposes of convenience it may decide to refer only disputes arising in the Telangana area to the Labor Court at Hyderabad and in the Andhra Area to the Labor Court at Guntur. Section 7 of the Act authorises the Government to constitute one or more Labor Courts. The provision is wide enough to enable the Government to constitute more than one Labor Court. We therefore have no hesitation in rejecting the contention of the learned counsel for the petitioner that the Government

had no jurisdiction at all to constitute an Additional Labor Court at Hyderabad.

6. The next submission made on behalf on the petitioners is that even if the Additional Labor Court was validly constituted under S. 7 of the Act, it has no jurisdiction to decide application under S. 33-C (2) as under that provision it is only the Labor Court, which is specified as the Labor Court for deciding any question which arises as to amount of money due or as to the amount at which the benefit should be computed that has power to decide such a question. It was submitted that there is no such specification in this case. Reference was made to the decision of the Supreme Court in *Treogi Nath v. Indian Iron and Steel Co*<sup>1</sup>, in which it was held that the words "specified in this behalf" in S. 33-C (2) clearly indicate that there must be a specification by the appropriate Government that a particular Court is to discharge the function under S. 33-C (2). The mere fact that a Labor Court has been constituted under Section 7 (1) of the Act for the purpose of adjudication of Industrial disputes as well as for performing other functions that may be assigned to it under the Act does not mean that that Court is automatically specified as the court for the purpose of exercising jurisdiction under S. 33-C (2) of the Act. Section 33-C (2) confers jurisdiction only on those Labor Courts which are specifically designated by the Government for the purpose of computing the money value of the benefit claimed by a workman. *Management of Socklatinga Tea Estate v. N. J. Korean*<sup>2</sup>, It is argued that neither in notification No. 1 nor in notification No. II in G. O. Ms. No. 1155. is there any specification as required under S. 33-C (2) of the Act. No doubt notification No. 1 is in general terms and is only a notification constituting an Additional Labor Court under S. 7 of the Act for the adjudication of Industrial Disputes relating to any matter specified in the second schedule or any other matter that may be referred or transferred to it from time to time from any other Labor Court. But, in our view, there are sufficient words in notification No. II which would constitute a specification of the Additional Labor Court as a Labor Court for dealing with applications under S. 33-C (2). In the preamble of notification No. II it is stated that several petitions under S. 33-C (2) are pending before the Labor Court, Hyderabad, for a long time and it is considered necessary to relieve the said Court from some of its pendency by withdrawing from it all the said petitions and transfer them to the newly constituted Additional Labor Court. The notification proceeded to say that all the petitions filed under S. 33-C (2) of the Act pending before the Labor Court at Hyderabad are withdrawn from that Court and transferred to the Additional Labor Court at Hyderabad and then authorises the Addl. Labor Court to proceed and dispose of the cases so transferred to it either de novo or from the stage at which they were so transferred as it deems fit. In this connection reference may also be made to S. 33-B of the Act which provides for withdrawing any proceeding under the Act pending before a Labor Court and transfer in the same to another Labor Court for the disposal of the proceeding and the Labor Court to which the proceeding is so transferred may subject to special directions in the order of transfer, proceed either de novo or from the stage at which it was so transferred. We are of the view that, in the notification which transfers the pending petitions before the Labor Court Hyderabad to the Additional Labor Court, the direction that the Additional Labor Court shall proceed to dispose them of either de novoll or from the stage at which they were so transferred clearly constitutes a specification under S. 33-C (2) specifying the Additional Labor Court as the Court. which

<sup>1</sup> AIR 1968 SC 205 : (1969) 1 Lab LJ 1

<sup>2</sup>1968 Lab IC 915: (AIR 1968 Ass 15) (FB)

is empowered to decide the ques-I tion which falls to be decided under Section 33,C (2) of the Act.

7. As far as fresh petitions are concerned, the notification clearly states that all miscellaneous petitions under the said section shall henceforth be filed before the Additional Labor Court. This again, in our view, is sufficient specification of the Additional Labor Court, Hyderabad, as the Court which is empowered to decide the questions arising under Section 33-C (2).

8. Sri E. D. Nathan, the learned counsel for the petitioners in W. P. Nos. 3876, 3870, 4029 and 4030 of 1978 submitted that having regard to the wide language used in the last part of the notification, namely that "all miscellaneous petitions under S. 33-C (2) shall henceforth be filed before the Additional Labor Court" it would lead to the result that even the Labor Court at Guntur would not have any jurisdiction to entertain applications under S. 33-C (2) filed after G. O. Ms. No. 1155 was passed. This could not have been the intention of the Government in framing the G. O. It is true that the language gives scope for such a construction. But in these writ petitions we are not concerned with the petitions which have been filed before the Labor Court at Guntur and the question whether the Labor Court. Guntur has jurisdiction to proceed with those petitions does not arise in this batch of writ petitions. It however seems to us that the Government would be well advised to clarify this position and if their intention is that the Additional Labor Court should have jurisdiction only with reference to applications under S. 33-C (2) with regard to matters arising within the Telangana Area they may modify or amend the G. O. to that effect.

9. Sri Jagannadha Rao, the learned counsel for the petitioner, further contended that even if the Additional Labor Court has jurisdiction to hear petitions transferred to it from the Labor Court, Hyderabad, such a transfer cannot be made suo motu. This contention, in our view, is wholly untenable having regard to the terms of S. 33-B of the Act. Section 33-B provides that the appropriate Government may by order in writing and for reasons to be stated therein withdraw any proceeding under this Act pending before a Labor Court and transfer the same to another Labor Court. The only requirements in this section are that the order of transfer must be in writing and that reasons are to be stated therein. There is nothing in S. 33-B which precludes the Government from acting suo motu and compels them to transfer only when an application is made by any party.

10. The next submission that is made is that an opportunity should have been given to both the parties before the power of transfer under S. 33-B is exercised. Section 33-B in terms does not contemplate any notice being given before a transfer is made of any proceeding from one Labor Court to another. There is no right to any party to have any question decided by a particular Court. We do not therefore consider that even principles of natural justice are violated by transferring a proceeding from one Labor Court to another, especially for administrative reasons without giving a notice prior to the transfer or without giving an opportunity to show cause why such a transfer should not be made. An arbitrary exercise of the power of transfer is adequately safeguarded by the provision that reasons have to be stated for such transfer. In this particular case the reason for the transfer is that the Labor Court at Hyderabad is unable to cope up with the heavy volume of work before it and as applications under S. 33-C (2) of the Act are pending there for a long time it is necessary that another Labor Court should be constituted and proceedings should be transferred to that Court. It cannot be denied that industrial disputes and questions arising in those disputes should be speedily disposed of in order to preserve industrial peace and harmony and in order to ensure such speedy disposals, these proceedings have been transferred to the Additional Labor Court. We see no force in the contention that an opportunity

should have been given before the power to exercise the transfer of proceedings from the Labor Court, Hyderabad to the Additional Labor Court, Hyderabad is exercised. In all these cases, the Additional Labor Court was right in holding that it had jurisdiction to entertain and proceed with these applications.

11. In W. P. No. 2687/78 a further submission is made that after the proceedings were withdrawn and transferred to the Additional Labor Court no notice was given to the petitioner of such a transfer and the application was decided ex parte. It is admitted by the learned counsel for the second respondent that no such notice was given. It is incumbent upon the transferee court to give notice of the proceedings after the petition was transferred from the Labor Court at Hyderabad and as such no notice was given the impugned order is clearly vitiated. In the result, in W. P. No. 2687/78 there will be a direction to the Additional Labor Court to hear the application afresh after giving sufficient notice to the parties concerned. W. P. No. 2687/78 is therefore allowed. W. P. Nos. 2357, 3870, 3876 and 4029 are dismissed.

12. In W. P. No. 4030/78 an application was filed after G. O. Ms. No. 1155 under S. 33-C (2) of the Act before the Labor Court, Hyderabad. That application was returned stating that the Labor Court ceased to have jurisdiction to entertain the application after G. O. Ms. No. 1155 was made. It is submitted by Sri Nathan, the learned counsel for the petitioner, that even assuming that the Additional Labor Court has jurisdiction to entertain the application, the jurisdiction of the Labor Court to entertain applications which existed prior to G. O. Ms. No. 1155 is not taken away. He submitted that express words are necessary to take away any jurisdiction of the Court or Tribunal, which is conferred upon it. In this case in the last paragraph of the notification No. II it is stated that all miscellaneous petitions under S. 33-C (2) shall henceforth be filed before the Additional Labor Court. The use of the expression "all miscellaneous petitions" leaves no room for doubt that every miscellaneous petition after the G. O. should be filed before the Additional Labor Court. Though not by express words by necessary implication, the jurisdiction of the Labor Court at Hyderabad is taken away by this G. O. This contention also fails and the writ petition is dismissed.

13. The parties will bear their own costs in all these writ petitions. Advocate's fee is fixed at ₹ 100/- in each of the writ petitions.  
Order accordingly.