

Ananda and ors. Vs. Karnataka Electricity Board and ors.

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Court : Karnataka

Decided On : Jan-05-1996

Reported in : 1996(5)KarLJ533; (1999)IIILLJ1259Kant

Judge : V.P. Mohan Kumar, J.

Acts : Employees' State Insurance Act, 1948 - Sections 2, 2(9) and 2(12);
Factories Act; [Constitution of India](#) - Articles 38, 39, 42, 43 and 43A

Appeal No. : W.P. Nos. 25807 to 25814/1992

Appellant : Ananda and ors.

Respondent : Karnataka Electricity Board and ors.

Advocate for Def. : B.C. Prabhakar, Adv. and ;Bhoopalan Associates

Advocate for Pet/Ap. : M.C. Narasimhan, Adv.

Judgement :

ORDER

V.P. Mohan Kumar, J.

1. The controversy to be adjudicated in these writ petitions relates to claim of equality prayed for by a group of workers who are working in a canteen attached to the office of the 1st respondent. The allegation runs as follows:

2. The petitioners are working in the K.E.B. Canteen established by the 1st respondent for benefit of its employees numbering around 800 working in the K.E.B. office in Cauvery Bhavan. They claim that they are the lowest paid employees and their salary is not on par with other employees of the K.E.B. Since their numerical strength is negligible, they allege that no trade union is willing to sponsor their cause. The canteen is catering to the need of nearly 800 employees working in the premises of the 1st respondent in Cauvery Bhavan in Bangalore during the office hours. The petitioners allege that they have been working since 1985-86. According to the petitioners the canteen is being run by the 2nd respondent who is appointed by the 1st respondent. The 2nd respondent consists of officers and employees of the Karnataka Electricity Board. The petitioners allege that the Committee is running the canteen under the control and guidance of the 1st respondent. The capital is furnished by the 1st respondent ; the premises belongs to the 1st respondent so also the moveable and other property belong to the 1st respondent. The accounts are audited by the 1 st respondent. According to them the 1st respondent virtually controls the running of the canteen. They have alleged that there are posts similar to that held by the petitioners namely Canteen Manager, Cook-cum-Butler in the Board service. They are paid the following salary:

Canteen Manager: Rs 1300-3535/-

Cook-cum-Butler: Rs. 1015-2050/-

Besides these employees are entitled to D.A. and other benefits. In contrast among the petitioners the highest salary inclusive of D.A. and other perquisites is Rs. 753.50 and the lowest is, Rs. 541.80, They also submit that the lowest paid worker in K.E.B. received Rs. 2000/- besides D.A. They allege that several representations made by them to the 1st respondent have been of no avail. The employer is not paying even the minimum wages as per statute. Minimum wages payable to cleaners and such categories would be Rs. 568.60 +143.25. This shows how their claim is neglected. The petitioners have therefore prayed for the following relief.

'to call for the records of the case and to direct by a writ of mandamus, the Karnataka Electricity Board and the Managing Committee of the Canteen to revise the wages of the petitioners so as to bring it on par with the regular employees of the Karnataka Electricity Board at the corresponding level or category.'

3. Detailed statement of objection has been filed by the 1st respondent. They deny the claim of the petitioners. The principal contention is that the petitioners have not been appointed by the 1st respondent and that therefore they cannot claim wages on par with the employees of the K.E.B. The K.E.B. provides premises, furniture, power, water and light to run the canteen free of charge as a gesture of good will. A limited amount of the seed money is also sanctioned to run the canteen which is being run by the managing committee. The 1st respondent has no responsibility or liability in respect of the management. The petitioners were appointed by the managing committee the 2nd respondent and therefore they cannot have any claim against the K.E.B. There are no corresponding posts in the K.E.B. There is no comparison between the canteen employees and minimum wages paid to the lowest grade official of the K.E.B. The canteen employees are paid wages in accordance with the Minimum Wages Act. Thus the main stress of the contention urged by the 1st respondent is that the canteen employee cannot look upon the K.E.B. as its employer as all of them have been appointed by the canteen committee running the canteen.

4. It is seen that the canteen was in existence since some time. There were complaints that the contractor who was running the canteen was not functioning satisfactorily. The 1st respondent thereupon noticed that the employees working in the Cauvery Bhavan were going out for taking their refreshments. Hence, in order to improve this situation and to improve the efficiency of the workers an ad hoc committee was constituted to make recommendations; the said committee recommended the running of a canteen through a Managing Committee and it suggested the formation of a Managing Committee with the Public Relations Officer of the K.E.B. as its Chairman to run the canteen. The 1 st respondent thereupon issued the following order:

'PREAMBLE:

The Memorandum of settlement dated December 31, 1980 entered into between the Management, K.E.B. and K.E.B. Employees' Union (Reg. No. 659).

2. The present canteen which is now run by the Contractor in Cauvery Bhavan is not functioning satisfactorily. As such many of the employees are found going out for taking their refreshments. In order to improve this situation, an ad hoc committee was constituted to make recommendations to the Board for running the canteen on 'No Profit/No Loss Basis' and to improve the quality and to avoid loss of time by the staff going out during office hours.

3. The Ad hoc Committee has suggested among other things that the Canteen may run by a Managing Committee with the Public Relations Officer, K.E.B. as its Chairman.

4. The ad hoc Committee has solicited that the Managing Committee may be provided (by the Management of K.E.B.) with the facilities of premises, free power, water supply, available furniture, cooking utensils, crockery, cutlery, etc., and for sparing to the canteen committee the help of an assistant. The canteen duly constituted may operate from September 10, 1986 which will replace the existing canteen.

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