

K. Jagadish and Others Vs. Singareni Collieries Company Limited

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Court : Andhra Pradesh

Decided On : Jul-28-1998

Reported in : 1998(4)ALD730

Judge : S.R. Nayak, J.

Acts : [Constitution of India](#) - Article 14, 16, 21, 32 and 226; [Industrial Disputes Act, 1947](#) - Sections 12(3)

Appeal No. : WP No. 29732 of 1995

Appellant : K. Jagadish and Others

Respondent : Singareni Collieries Company Limited

Advocate for Def. : Mr. K.Srinivasmurthy, Adv.

Advocate for Pet/Ap. : Mr. A.K. Jayaprakash Rao, Adv.

Judgement :

ORDER

1. The petitioners have sought for a writ in the nature of Mandamus declaring the action of the respondent in not paying equal pay for equal work to the petitioners on par with the General Mazdoor Category -I employees from the date of their initial appointment as illegal, unjust, contrary to law, discriminatory and violative of Articles 14, 16 and 21 of the [Constitution of India](#) and for a consequential direction

to the respondent to pay equal pay for equal work on par with the General Mazdoor Category -1 employees from the date of their initial appointment.

2. This relief sought by the petitioners is essentially grounded on the judgment of this Court in Thalia Venkati and others v. the Singareni Collieries Limited, Ramagundam, in Writ Petition No.2170 of 1987 and batch. This Court while disposing of those writ petitions vide its order dated 2-2-1990 directed the respondent-Management to pay the petitioners therein the wages at the rate of the minimum scale of pay admissible to General Mazdoor Category-I employees from the date of filing of the writ petitions and to frame a scheme prescribing the percentage in each recruitment quota for absorption of casual labourers. In those writ petitions, the petitioners therein had sought a declaration that the action of the respondent company in not regularising their services and not treating them on par with the General Mazdoor Category-I employees as arbitrary and illegal and for a consequential direction to the respondent Company to regularise the services of the petitioners from the date of their initial appointment and to treat them on par with the General Mazdoor Category-I employees and to pay all benefits.

3. The Management of the respondent company, in response to Rule Nisi, has filed a detailed counter contesting the claim of the petitioners. In the counter, in para 5, it is stated that in pursuance of the judgment of this Court in Writ Petition Nos. 2170/87 and batch dated 2-2-1990, a scheme was evolved by the Company under which services of certain categories of employees were absorbed on regular basis by the Management in pursuance of a settlement entered into between the parties under Section 12 of the [Industrial Disputes Act, 1947](#), in the year 1991. It is contended in the counter that the petitioners did not raise any demand relating to their entitlement to receive wages in terms of pay scale with effect from the date of their initial entry into service, and therefore the petitioners are bound by the settlement, and it is not open to the petitioners to raise a dispute on the ground that prior to the settlement or prior to the date when it was implemented, they ought to have been paid wages on the basis of 'equal pay for equal work' principle. It is also contended by the Management in the counter that writ petition is liable to be dismissed in limine on the ground of laches because if the petitioners had any grievance, they ought to have put forth that grievance in time and there is

inordinate delay in approaching this Court.

4. There is no controversy between the parties that the petitioners in this writ petition and the petitioners in writ petition Nos. 2170/ 87 and batch are similarly circumstanced in every respect in the sense that they made entries into service of the respondent Company as casual labourers. If the petitioners had joined the petitioners in writ petition Nos. 2170/87 and batch, they would have got the same reliefs as granted by this Court in those writ petitions. No doubt, the petitioners did not air their grievance along with their similarly circumstanced colleagues in the year 1987. The present writ petition was presented before this Court on 27-12-1995. A settlement was arrived at between the parties as pointed out in the counter in the year 1991. There was delay in approaching this Court. But the question which arises for consideration is whether only on the ground that the petitioners have approached this Court after a lapse of time, their claim should be rejected.

5. Having heard the learned Counsel for the parties, I am not persuaded to refuse the relief to the petitioners only on the ground of delay. I say this because when this Court passed orders in Writ Petition No.2170/87 and batch on 2-2-1990 directing the Management of the Company to pay the petitioners therein wages at the rate of minimum scale of pay-admissible to General Mazdoor Category-I employees and also directing the Management to frame a scheme for absorption of the casual labourers and since that order became final, the benefit of the judgment should have been extended to all the casual labourers similarly circumstanced. It is now well-established that when a direction issued by a competent Court of law to the public authorities to extend certain service benefits to a group of employees in a legal action becomes final, then, such benefits should be extended to all the similarly circumstanced employees without compelling each and every one of such similarly circumstanced employees to approach the Court for the relief. In that view of the matter, the Management of the company itself, in fairness and in conformity with the settled position in law, ought to have extended the benefit of the judgment to all the similarly circumstanced employees. But, for no good reason, such course was not adopted by the Management. Looking from that angle, it will be totally unjust and improper to deny similar benefits to the

petitioners on the ground of delay. In fact, there is delay on the part of the Management of the company to extend the benefit of the judgment of this Court to the petitioners. In forming this opinion the Court is fully supported by the decision of the Supreme Court in Doordarshan Cameramen's Welfare Assn. (Regd.)v. UOI& another, : AIR 1990 SC1387 . In that case also the benefits of the judgment of the Supreme Court dated 26-8-1988 delivered in Article 32 writ petitions were not extended to all similarly circumstanced persons but they were extended only to employees who are the petitioners in writ petitions in question. Therefore the similarly circumstanced employees who were denied the benefits of the judgment filed the writ petition. The respondent employer filed the counter resisting the claim contending that the benefit of order dated 26-8-1988 need not be extended to all persons sue moto who are not petitioners in earlier writ petitions in question. Rejecting the said contention of the employer the Supreme Court held that the benefit of the judgment of the Supreme Court dated 26-8-1988 should be extended to all those who belong to the three categories of employees and to do otherwise would be discriminatory.

6. Adverting to the contention of the learned Standing Counsel for the respondent that the petitioners did not put forth their claim relating to the wages at the rate of minimum scale of pay admissable to General Mazdoor Category-I at the time of entering into settlement in the year 1991, suffice it to state that whether the petitioners are entitled to the wages at the rate of minimum scale of pay admissible to General Mazdoor Category-I prior to the date of settlement is not the subject matter covered by the settlement. It is true that the parties to the settlement are bound by the terms of the settlement. The above claim is not the matter of the settlement. Nowhere in the counter it is stated that the workmen laid a demand with the Management that they should be paid the wages at the rate of minimum scale of pay admissible to General Mazdoor Category-I for the period anterior to the date of settlement and such demand was considered and rejected by the Management and the same was accepted by the workmen and that they entered into an agreement agreeing for rcgularisation of their services only with effect from the date of settlement giving up their claim for wages at the rate of minimum scale of pay anterior to the said date. In that view of the matter, the contention of the learned Standing Counsel for the respondent company that if the

relief is granted, it would violate the terms of the settlement, is not well-founded. Equals should be treated alike is a constitutional creed flowing from Article 14 of the [Constitution of India](#) and the petitioners cannot be discriminated. As pointed out supra, the Management itself ought to have extended the same treatment to the similarly circumstanced employees when it suffered the order of this Court in the year 1990. Simply because the petitioners have approached this Court after a lapse of time, it cannot be a weighty or substantial ground for the Court to deny the benefits to which they are admittedly otherwise entitled. However, the petitioners are not entitled to the minimum scale of pay from the beginning of their service. This Court while disposing of the writ petitions No. 2170/87 and batch directed to pay wages at the rate of minimum scale of pay only from the date of filing of the writ petitions, and that in the facts and circumstances of this case also, the petitioner is entitled to similar treatment and not better treatment.

7. In the result, the writ petition is allowed in part directing the respondents to pay the petitioners wages at the rate of minimum scale of pay admissible to the General Mazdoor Category I from the date of filing of the Writ Petitions Nos. 2170/87 and batch till the day/days on which the petitioners are regularised into service in pursuance of the settlement entered into between the workmen and the management of the respondent company in the year 1991. The wages already paid to the petitioners during this interregnum can be set off against the sums of money payable to the petitioners and only the balance has to be paid to the petitioners. The direction shall be complied with within a period of three months from today. No costs.