

Ramesh S. Vs. Tamil Nadu Petro Products Ltd., Manali Express Highway and anr.

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Court : Chennai

Decided On : Mar-08-2000

Reported in : (2001)ILLJ1666Mad

Judge : R. Jayasimha Babu and ;Prabha Sridevan, JJ.

Acts : [Constitution of India](#) - Article 226; Industrial Disputes Act

Appeal No. : W.A. No. 808/1997

Appellant : Ramesh S.

Respondent : Tamil Nadu Petro Products Ltd., Manali Express Highway and anr.

Advocate for Def. : Sanjay Mohan, Adv. for Ramasubramanian Associates

Advocate for Pet/Ap. : S. Kumaraswamy, Adv.

Judgement :

R. Jayasimha Babu, J.

1. Petitioner was appointed as an attender in the office of the respondent-company at Madras, where the respondent-company has its head office, on May 1, 1987. He was promoted as senior attender, and on such promotion, was transferred to

the Kanpur branch office of the respondent-company with effect from January 7, 1995. He joined the Kanpur office on November 14, 1995. While he was working there, he was served with a show-cause notice, dated March 15, 1996, which show-cause notice was issued by the Chief Manager (HRD) of the company from Madras. The allegation against him was that he had made a false claim for Rs. 1855 which sum was the sum he claimed to have paid as school fees for his son S. Raunak, who was a student in the U.K.G. 'A' Section of the D.A.V. School at Madras.

2. After holding an enquiry that was held on that charge the petitioner was served with an order of termination issued by the same Chief Manager, (HRD) from the Madras office. That order of termination is dated August 8, 1996. We must mention here that prior to that date, an order purporting to be an order of termination had been issued by the Deputy Manager (Marketing) from the Kanpur office. It was addressed to the Kanpur address of the petitioner. After the issuance of the order of August 8, 1996 the petitioner was served with a letter, dated August 24, 1996, by the Deputy Manager (Marketing) of the Kanpur office of the company, wherein it was stated that he had been instructed by the Chief Manager (HRD) to send the letter signed by the Chief Manager (HRD), but instead, the Deputy Manager, Kanpur, had made a mistake of sending the letter signed by himself along with that letter of August 24, 1996. The letter signed by the Chief Manager (HRD) from Madras was sent to the applicant's address at Madras, viz., No. 251, T.V.K. Nagar, Perambur, Madras.

3. The facts set out above clearly show that the petitioner was employed at the head office at Madras, in the year 1987, had served with the respondent at Madras for eight years, that his son was studying in the School at Madras, and that he was transferred to Kanpur towards the end of 1995, that in respect of a claim made by him for reimbursement of the fee paid by him for his son's schooling at Madras, he was issued charge-sheet signed by the Chief Manager of the Company at Madras, and was ultimately dismissed by a letter of termination signed by the Chief Manager at Madras. The charge-sheet, as also the letter of termination was sent to the petitioner at his Madras address.

4. After the termination of employment in that manner, the petitioner sought to raise an industrial dispute. The Conciliation Officer initially declined to exercise the jurisdiction, but subsequently entertained the petition filed by the petitioner and sent a notice dated January 30, 1997 requiring the employer-respondent to appear before him on February 7, 1997 in connection with the dispute raised by the petitioner. Along with that notice, a copy of the claim petition that had been filed by the petitioner before the Conciliation Officer, viz., the Assistant Commissioner of Labour, Conciliation I, was also sent to the employer. The employer, in answer to that petition, by his letter of February 24, 1997, objected to the exercise of jurisdiction by the Conciliation Officer on the ground that it is only the authorities in Kanpur who can initiate such conciliation, and that the authorities in the State of Tamil Nadu would have no jurisdiction at all. The earlier order of the Conciliation Officer which had upheld such a stand of the employer was also referred to and relied upon.

5. The employer thereafter rushed to this Court before the Conciliation Officer could even consider the objection that had been raised. The learned single Judge accepted the contention of the employer that the State of Tamil Nadu is not the appropriate Government, and that the Conciliation Officer, Madras has no jurisdiction to entertain the petition that was filed by the petitioner before him.

6. Learned counsel for the appellant submitted that this Court in exercise of its extraordinary jurisdiction under Article 226 of the Constitution would not normally interfere with the proceedings at the stage of conciliation before the Conciliation Officer appointed under the Industrial Disputes Act, as that would defeat the very purpose of conciliation viz., the exploration of the possibility of bringing about a settlement between the parties. Counsel also submitted that it was for the Conciliation Officer to consider the objections that had been raised, and if conciliation did not succeed, then, it would be for the Labour Court to decide as to whether the employer's objection with regard to jurisdiction is a tenable one, or not. Counsel submitted, that it would not be proper for this Court at the threshold to prevent the conciliation authority under the Act to conciliate on a dispute, if that authority were to be of the view that it has jurisdiction, over the dispute.

7. Learned counsel, for the employer submitted that having regard to the decision of the Supreme Court in the case of Workmen of Shri Rangavilas Motors Private Ltd. v. Shri Rangavilas Motors (Private) Ltd. : (1967)11LLJ12SC the order of the learned single Judge cannot be faulted, as all that has been done by the learned single Judge is to follow the law laid down by the Apex Court. Counsel also in this context referred us to a judgment of this Court in the case of, Management of Punjab National Bank v. S. C. Gupta and Ors. : (1990)11LLJ605Mad . Both the cases referred to by counsel came up before the Court after adjudication had been done by the appropriate authorities in the first case by the Labour Court and latter by the High Court, and in the second by the authorities under the Shops and Establishments Act.

8. In the case of Rangavilas Motors (supra), SIKRI J., who spoke for the Bench referred to the earlier decision of the High Court in the case of Indian Cable Company Ltd. v. Its Workmen : (1962)11LLJ409SC , wherein the Court had approved the observations of CHAGLA, C.J. in the case of Lalbhai Tricumlal Mills Ltd. v. Vin 1956 1 LLJ 557 . The observations of CHAGLA, C.J., thus approved read as under at p. 558:

'But what we are concerned with to decide is: Where did the dispute substantially arise? Now, the Act does not deal with the cause of action, nor does it indicate what factors will confer jurisdiction upon the Labour Court. But applying the well-known tests of jurisdiction, a Court or Tribunal would have jurisdiction if the parties reside within jurisdiction or if the subject- matter of the dispute substantially arises within jurisdiction.

9. The Apex Court in the case of Indian Cable Company, Ltd. (supra), after setting out the observations of CHAGLA, C.J., held thus : (1962)11LLJ409SC :

'In our opinion, those principles are applicable for deciding which of the States has jurisdiction to make a reference under Section 10 of the Act.'

The law laid down in the case of Indian Cable Company (supra), in that manner was reiterated by the Apex Court in the case of Rangavilas Motors (supra), wherein after referring to the observations of CHAGLA, C.J., and the approval

thereof by the Court in the case of Indian Cable Company (supra), the Court observed : (1967)11LLJ12SC :

'Applying the above principles to the facts of this case it is quite clear that the subject-matter of the dispute in this case substantially arose within the jurisdiction of the Mysore Government.'

The twin principles of the residence of the parties within jurisdiction, and substantial connection between the dispute and the territory of the State within which the industrial dispute is sought to be raised has thus been approved by the Apex Court by a two Judge Bench in the case of Indian Cable Company (supra), as also by the three- Judge Bench in the case of Workmen v. Rangavilas Motors (Private) Ltd. (supra).

10. Learned counsel for the employer however, contended that the observations of the Apex Court in the case of Rangavilas Motors (supra), that ordinarily if there is a separate establishment and the workman is working in that establishment, the dispute arises at that place would clearly indicate that it is only the State within which the establishment at which the employee had been last employed is situate would have jurisdiction, and not any other State wherein the head office of the employer may be located.

11. We are unable to accept that submission. As already noticed by us, the Supreme Court reiterated the law which had been declared in the case of Indian Cable Company (supra), which in turn had approved the observations of CHAGLA, C.J., and what the Court applied in the case of Rangavilas Motors (supra), were the principles which had been enunciated by CHAGLA, C.J., and had been approved by the Apex Court in the case of Indian Cable Company (supra). The observations relied on cannot be read as having in any way diluted the approval, or limiting its application only to cases where the employee was employed in the branch in the State in which the employer contends that the industrial dispute can be said to arise. Moreover, even the observation relied upon is itself qualified by the term ordinary. It is clear that the Court did not intend to lay down a rule of thumb to be applied in all situations irrespective of the differences in the facts presented before the Court. It was not laid down by the Court that if the same

employer has a branch in another State the employee of the branch can raise a dispute only in that State, and nowhere else even though the other factors present in a given case indicate close nexus between the cause for the dispute, and the place where industrial dispute is sought to be raised for the purpose of having the same adjudicated by the Labour Court.

12. We must also observe that the Industrial Disputes Act is one of the principal statutes intended to promote industrial peace even while securing the just interest of labour. The interests of labour can hardly be said to be secured, if it is left to the employer who has a head office in one State to transfer the employee to a distant part of the country where it has a branch office, thereafter proceed to terminate his service, and then contend that the employee must be made to run across the country to have his dispute adjudicated. It is not possible for us to conclude that the Parliament intended such a result to ensue, even by a process of interpretation of the provisions of the Act.

13. On the facts of this case, extremely close links between the dispute sought to be raised, and the territory in which it is raised is evident. Petitioner was initially employed at Madras, served here for eight years. He made a claim for the fees paid for his son's education who was studying in school at Madras. The charges levelled against him are contained in the show-cause notice issued at Madras. That notice was addressed to the employee at Madras. Even the order of termination at the conclusion of the enquiry was prepared at Madras, and sent to the petitioner at his Madras address. The basis for the order of termination is the employee's act with reference to the education of his son at Madras. The document allegedly altered by the petitioner is the fee receipt given by the school at Madras. The employee resides in Tamil Nadu and the employee's head office is also within Tamil Nadu. The Conciliation Officer has acted within his jurisdiction in initiating conciliation, as the dispute raised is one which the Labour Court in Tamil Nadu is competent to adjudicate.

14. We must, therefore, hold that the learned single Judge was in error in proceeding to interdict the further proceedings before the Conciliation Officer, and consequently, disabling the workman altogether from having his dispute

adjudicated before the Labour Court in the State of Tamil Nadu.

15. We, therefore, set aside the order of the learned single Judge and dismiss the writ petition.

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