

PETITIONER:

T.N. CIVIL SUPPLIES CORPN. WORKERS UNION

Vs.

RESPONDENT:

T.N. CIVIL SUPPLIES CORPN.LTD. & ORS.

DATE OF JUDGMENT: 28/03/2001

BENCH:

S.R.Babu, S.N.Variava

JUDGMENT:

Appeal (civil) 1902 of

J U D G M E N T S. N. VARIAVA, J.

This Appeal is against a Judgment dated 14th October, 1997. By this Judgment a large number of writ petitions and certain writ appeals were disposed of. Briefly stated the facts are as follows: The Appellants are a Union, who represent the workers working in the various Direct Purchase Centres of the 1st Respondent at Thanjavur, Tiruvarur and Nagapattinam. The Government of Tamil Nadu brought into force the Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workmen) Act, 1981 with effect from 1.1.1982. The said Act will hereinafter be referred to as the said Act. After the enactment of the said Act the workmen, who had been employed in the Direct Purchase Centres of the 1st Respondent and had rendered more than 480 days of service claimed that they should be confirmed. The 1st Respondent refused to confirm them. The Appellants then filed Writ Petition No. 5459 of 1983 for a Mandamus that the provisions of the said Act should be implemented and employees of Direct Purchase Centres, who had rendered more than 480 days of service, should be confirmed the status of permanent employee. In this Writ Petition the only point which was argued was whether the 1st Respondent Corporation was governed by the provisions of the said Act. The 1st Respondent claimed that the said Act applied only to Establishments to which the Tamil Nadu Shop and Establishment Act, 1947 applied. The 1st Respondent claimed that, by virtue of Section 4(1)(c) of the Tamil Nadu Shop and Establishment Act, the provisions of that Act were not applicable and hence the said Act was also not applicable to them. The High Court negatived this contention and held that the said Act would apply to the 1st Respondent. The High Court, by its Order dated 10th October, 1991, directed the employees to approach the Inspector of Labour for determination of the question whether they satisfied the conditions and were entitled to be declared as permanent workers. In this Judgment the question whether the various Direct Purchase Centres were seasonal in nature and/or whether the work performed in those Centres was intermittent was not decided or dealt with even though raised in the affidavits. Pursuant to this Judgment the Inspector of Labour held an inquiry. By two reports, dated 25th March, 1995 and 31st May, 1995, it was held that the Establishment was not of a seasonal character and the work performed by the concerned workmen was not intermittent. It was also held that the workmen fulfilled the criteria laid down under the Act and were therefore entitled to be made permanent. Against these reports the 1st Respondent has filed Writ Petitions which have been admitted and are pending.

In the meantime the 1st Respondent terminated the services of a number of workmen. The Union, therefore, filed a Writ Petition claiming a blanket injunction that the workers should not be relieved from their work. The Writ Petition, filed by the Union, was dismissed by a Single Judge on 10th April, 1997 by holding that the Union was not entitled to have a blanket injunction of the nature sought. It was held that the employees whose services were terminated would take such action as is available to them in accordance with law. Against the dismissal of the Writ Petition the Petitioners filed an Appeal. In the meantime a number of workmen had filed Writ petitions claiming permanency. By the impugned Judgement dated 14th October, 1997 the Appeal of the Union came to be disposed of along with the numerous Writ Petitions filed by workmen. The Division Bench held that the questions raised, by the Appellants herein, in that Appeal were the same which were pending in the Writ Petition filed by the 1st Respondent against the Orders made by the Inspector of Labour. The Division Bench held that the Union had to await the final outcome of those Writ Petitions. The Division Bench also agreed with the conclusion of the Single Judge that since the services of the employees had been terminated, it was for the employees to seek their remedies in a manner known to law. We find no infirmity with the reasoning of the Division Bench and see no reason to interfere. Mr. Sharma submitted that even though the Division Bench has held that the questions raised in the Appeal of the Union were the same as those pending in the Writ Petitions filed by the 1st Respondent, yet the Division Bench has gone on to give a finding that the Establishment is of a seasonal character and the work is not intermittent. Mr. Sharma submitted that these findings would now come in the way of the Union while defending the Writ Petition filed by the 1st Respondent. He submitted that this Court should either set aside these findings or clarify that those Writ Petitions would be decided without taking those findings into account. We are unable to accept these submissions. Those findings were given because the individual employees, who had filed various other Writ Petitions, raised these contentions before the Division Bench. As those contentions were raised the Division Bench has answered these contentions. None of the workmen, in whose matters those findings are given, have come up in Appeal to this Court. They have accepted those findings. It is, therefore, not open for the Union to claim that those findings should be set aside. In any event, as stated above, the services of the workmen have been terminated. Therefore, even if the said Act squarely applied and the Establishment of the 1st Respondent was not of a seasonal character and the work was not intermittent, the remedy would now be to file the appropriate proceedings against the order of termination. In this view of the matter no purpose would be served by dealing with the correctness of the finding given by the Division Bench. We, therefore, see no reason to interfere. The Appeal stands disposed of accordingly. There will, however, be no order as to costs.