

1976 KHC 1064

Supreme Court

*Y. V. Chandrachud; *V. R. Krishna Iyer, JJ.*

Municipal Corporation of Delhi v. Rasal Singh

C. A. No. 579 to 678 of 1970

03 March, 1976

Industrial Disputes Act, 1947, S.33 - Service Matters -- Dispute relating to status of workers as regular employees or only casual workers though continuously on muster rolls, pending before Tribunal -- Workers jettisoned for 4 or 5 days and, later, reabsorbed -- Discharge of workers during pendency of dispute -- Tribunal accepted allegations of oblique motives such as a clever move to avoid continuous service of 240 days and awarded wages for the broken period -- Tribunal had read more into the mind of the Commissioner than was warranted by the record -- Award held was essentially just. (Para 2, 3)

JUDGMENT

Krishna Iyer. J.

1. We are handling an extraordinary case load of a hundred appeals by the Municipal Corporation of Delhi (the common appellant) against an award of the Industrial Tribunal, Delhi, granting 4 or 5 days wages to a hundred workers who had been employed on road making and like jobs for several years, some going even back to 1958. The appellant is obviously a public sector corporation which is supposedly a model employer, the appellees are petty workers who have not been confirmed in the registers but are on the pay roll as casual, though continuous workers; the break is for a few days and the financial burden cast by the award is around Rs. 5,000/-. And yet, the model employer has lavished on these hundred appeals to the Supreme Court of India on principle. Poor reflection on 'principles' prompting public sector undertakings and on prudence in litigation policy and outlay and the scant regard for the Supreme Court being approached only on supreme issues. These observations are an expression of this court's allergy to the frequency with which, in the name of 'principle', the State and the public sector institutions spiral up the litigation ladder and spend considerable sums of public money in cases which should have been adjusted by imaginative, conciliatory and wise attitudes, while professing profound concern for the welfare of Labour. An aware employer should be the last litigant, costs in Court being unproductive and even counter productive.

2. The facts in the single dispute spread out into a hundred appeals are that the workers were jettisoned for a few days and, later reabsorbed, thus depriving the workers of the small wages for short spells. An industrial dispute was pending at this time relating to the status of the workers as regular employees or only casual workers though 'continuously on the muster rolls'. Discharge of these workers during the pendency of the dispute before the Tribunal attracted S.33 of the Industrial Disputes Act which was invoked by the affected workmen. The plea of the Municipal Corporation of budgetary provision having petered out as justifying the non employment was disbelieved by the Tribunal. Oblique motives such as a clever move to avoid a continuous run of 240 days of work which entails certain responsibilities were alleged by the workmen and upheld by the Tribunal. But, having heard counsel on both sides, we are happy to hold that since the award is essentially just it must stand and, while the Municipal Corporation has erred in refusing, from whatever motive work for a few days, the Tribunal had

read more into the mind of the Commissioner than was warranted by the record. We are not satisfied that the appellant acted out of improper objects and, to that extent, undo the damaging remarks in the award under appeal. The workmen have since been held in the Industrial Dispute to be only casual labourers although we hope this will be no weapon in the hands of the employer to breach fair norms. The wages for the broken period will be paid by the appellant within one month; the injurious imputations in the award against the Corporation are unnecessary for reaching the conclusion and we do not regard it as fair to stamp the Corporation with unfair labour practice. These conclusions are mutually satisfactory as attested by counsel on both sides and we too share in the happy ending to a forensic saga of misfortune.

3. We affirm the award subject to the dilution of observations about the motives of the Corporation, and further direct payment of the sums directed by the award, together with cost, which we collectively quantify at Rs. 1,000/- (Rupees one thousand) within one month from today.

4. Counsel Shri D. P. Singh on behalf of the workmen assured the Court that no further legal proceedings will be taken by his clients on the score of alleged breach of S.33 of the Industrial Disputes Act.
