

LANKA PODU SEVA SANGAMAYA
v.
CENTRAL ENGINEERING CONSULTANCY BUREAU

COURT OF APPEAL.
SENANAYAKE, J.
C.A. 436/87
L.T. 3/240 – 248/87
L.T. 3/302/87, 319/87
DECEMBER 06, 1994.

*Industrial Dispute – Employment on specific project for limited period –
Retrenchment.*

Held:

Where workmen were employed on a temporary basis and for a specific project for a limited period of time and after completion of the project the workmen referred to were found to be in excess and their services retrenched, no relief or retrenchment benefits can be granted.

Cases referred:

1. *Caledonian (Ceylon) Tea and Rubber Estates Limited v. Hillman* 79 NLR 421.
2. *G. G. Dendekker Machine Works Ltd. v. National Engineering Workers Union*.

APPEAL from order of Labour Tribunal.

Faiz Mustapha, P.C. with *Sanjeewa Jayawardena* for appellant.
S.M. Fernando, P.C. with *Hyacinth Fernando* for respondent.

Cur. adv. vult.

January 9, 1995.

SENANAYAKE, J.

This is an appeal from the order of the learned President of the Labour Tribunal dated 12.10.87 where the Tribunal dismissed the application of the Union without granting any relief.

The relevant facts briefly are as follows. The Union made the application on behalf of the workmen and stated that they were employed under the Respondent Bureau at Victoria Worksite as watchers, some of them commencing employment from 1978 and some from 1982 on an all inclusive monthly salary of Rs. 1119/-. They averred that the serves were terminated without paying retrenchment benefits on the ground of retrenchment with effect from 31.1.87. They alleged that such termination was wrongful and unjust and prayed the workmen be granted compensation for wrongful termination. The Respondent admitted employment but they averred that the workmen were employed on a temporary basis and for a specific project for a limited period of time and after completion of the project the workmen referred to were found to be in excess and the services of the workmen were retrenched. They prayed that the applications be dismissed.

The Learned Counsel submitted that the Tribunal had erred in law in dismissing the application without granting any retrenchment benefits. The evidence discloses that the workmen were aware that they were employed on a temporary basis for a specific project for a limited time limit till the completion of the work undertaken by the Respondent. The witness called by the Union confirmed this position before the Tribunal. The Learned Counsel submitted that termination was on the basis of excess workmen and as their services were terminated they could be granted relief by way of retrenchment benefits. He relied on the decision of *Caledonian (Ceylon) Tea & Rubber Estates Limited v. Hillman*⁽¹⁾. In my view the facts of the case has no relevance to the facts in the instant case. The case reported in 79 N.L.R. arose from the closure of the Estate and Hillman was a permanent employee who lost his employment as a result of the sale

of the Estate, but in the instant case the workmen were temporary employees who were employed for a completion of a particular project and they were aware of this position when they commenced employment. With the completion of the project during the period of the time they ceased to be employed. The workmen were given notice and thereafter their services were terminated. The idea of closure of business does not have any application to the facts of the instant case.

The Learned Counsel relied on certain authorities from Indian Law Labour Law Journals. He cited the case of *G. G. Dendekker Machine Works Ltd. v. National Engineering Workers Union* ⁽²⁾ reported in the 1955 Indian Labour Journal. In that case the Employer appealed against the order of the Industrial Tribunal, where the Appellate Court held that retrenchment relief is to be paid on the date of retrenchment and there cannot be any reduction in the retrenchment relief by the amount of compensation. This authority has no relevance to the facts of the instant case. He also relied on *Sri Raw Silk Manufacturing Company and Their Workmen, the Hasting Jute Mills Company Limited* at the relevant time the Company had two units or factories one manufactured jute goods and the other manufactured silk fabrics. By notice dated 3.3.52 the Company proposed to close the silk factory on the ground that it was continuously running at a loss and in pursuance of the notice the workmen employed therein were discharged from service as from that date. Where it held that the workmen concerned have lost their employment for causes for which neither they nor the company was responsible. In the circumstances we think that the workmen should get compensation as in cases of *bona fide* retrenchment.

In the instant case the workmen at the commencement of employment was aware that the workmen were employed on temporary basis for a limited period for a specific job which at the completion of the work the employment would come to an end. In the case cited the Company or the workmen were unaware of the viability of the industry and the running of the factory proved to be a heavy loss; there the Company took steps to close the factory; in these circumstances the workmen were entitled to compensation as retrenchment benefits. This principle has no application to the facts in the instant case.

The workmen in the instant case were fully aware of the basis of employment and the nature of the Respondent project which was limited in time and also with the completion of the project his object came to an end.

I am of the view that in these circumstances none of the authorities cited by the learned Counsel has any relevance or applicability to the facts in the instant case. I do not see any merit in the submission. I do not see any reasons to disturb the findings of the Tribunal. I affirm the order and dismiss the appeal with costs fixed at Rs. 1000/-.

Appeal dismissed.
