

# SUPREME COURT OF INDIA

Messrs. Hooghly Jute Mills

Vs.

Their Employees

C.A.No.236 of 1956

(N. H. Bhagwati, B. P. Sinha and J. L. Kapur, JJ.)

29.01.1957

## JUDGEMENT

### **BHAGWATI J. –**

1. This appeal with special leave under Article 136 of the Constitution arises out of a decision of the Labour Appellate Tribunal, Calcutta, reversing the award of the Industrial Tribunal, Calcutta, and ordering the reinstatement of one Nanilal Mukherjee in the employ of the appellant with full pay and emoluments and continuity of service without break.

2. Nanilal Mukherjee had been employed by the appellant on and from the 26th July 1944 as a Turbine Fitter. He continued in the said employ as a Turbine Fitter until July 1951 when the appellant mills were electrified. On such electrification some employees were discharged by the appellant as redundant. Nanilal Mukherjee would also have been similarly discharged, but he was retained in its employ by the appellant as he was a senior Ministry and the appellant intended to absorb him, if Possible, in the new set up of mistries in the electrified mills. He was accordingly given a trial in the new set up for a sufficiently long time. One Collins who was the Overseer in the Mills, however, made a report on 4-9-52 to the Manager of the Mills stating that Nanilal Mukherjee had been working as a general Vice Ministry after the turbine closed down, but it was found after observation that he had no aptitude for this type of work and should therefore be treated as redundant. Acting upon this report the Manager of the Mills on 15-9-52 gave notice to Nanilal Mukherjee dispensing with his services as from 30-9-52. He was paid :- (1) Gratuity for 4 1/2 years at the rate of half a month's average basic wages, (2) his own and Employer's contributions in full to his Provident Fund and (3) earned leave with wages, which he accepted.

3. It appears that the National Union of Jute Workers, Calcutta, the respondent herein, of which Nanilal Mukherjee was a member, espoused his cause and the dispute arising out of his discharge by the appellant was inter alia referred by the Government of West Bengal for adjudication to the First Industrial Tribunal Calcutta. Evidence was led on behalf of the appellant and the respondent; Nanilal Mukherjee and James Collins were examined before the Tribunal and the Tribunal after considering the rival contentions of the parties and the evidence led before it came to the conclusion that Nanilal Mukherjee was discharged by the appellant by way of retrenchment owing to the fact that he could not be gainfully employed after the dismantling of the Turbine and that his discharge was not effected by way of victimisation or unfair labour practice. The Tribunal therefore held that he was not entitled to reinstatement.

4. An appeal was taken by the respondent to the Labour Appellate Tribunal, Calcutta, against this award of the Industrial Tribunal. The Labour Appellate Tribunal overruled the objection of the appellant to the effect that the appeal did not involve any substantial question of law and therefore could not be maintain. It held that it could not possibly believe the story that Nanilal Mukherjee was in the circumstances of the case continued in service month after month. It proceeded to observe :-

"When one is dismissed in the absence of any reasonable evidence, the finding of the lower Tribunal must be set aside as not being on sufficient material but also on the ground that such a conclusion could not have been drawn in the facts and circumstances of this case, when indications are to the contrary."

It accordingly allowed the appeal to this extent and ordered that Nanilal Mukherjee should be reinstated with full pay and emoluments and with continuity in service without a break.

5. The appellant applied for and obtained from this Court special leave to appeal against that decision of the Labour Appellate Tribunal, Calcutta and this appeal has come up for hearing and final disposal before us.

6. It must be observed that the award of the Industrial Tribunal, Calcutta was based on the evidence which had been led before it by the parties, which evidence consisted of that of Nanilal Mukherjee on the one hand and James Collins on the other. Nanilal Mukherjee admitted that he was discharged with effect from 1-10-52, and that he was served with a notice to the effect that his services were no longer required from that date. He also admitted that he was discharged on the ground that he was no more required as a Turbine Fitter. No case of a dismissal by way of punishment or of the victimisation or unfair labour practice by reason of his having been a member of a respondent Union and having actively participated in Union activities was made out in the evidence. It was clearly a case of his discharge from the employ of the appellant by reason of his being redundant owing to the Turbine having closed down because of the electrification of the mills. There was, therefore, on the record evidence which, if believed, was sufficient to enable the industrial Tribunal to come to the conclusion which it did.

7. Under these circumstances, it could not be stated that there was any question of law- much less a substantial question of law- involved in the appeal filed by the respondent before the Labour Appellant Tribunal. The labour Appellate Tribunal would have jurisdiction to entertain the appeal only if a substantial question of law was involved. The insufficiency or otherwise of evidence in order to enable the fact finding Tribunal to come to a conclusion on question of fact was clearly a matter within its exclusive jurisdiction. The finding of fact reached by the Industrial Tribunal could only be set aside if either there was no evidence at all on which such a finding could be based or the finding reached by it was perverse or such as no reasonable body of men could have arrived at. The evidence which had been led before the Industrial Tribunal was, in our opinion, sufficient, if believed, to enable the Industrial Tribunal to come to the conclusion in favour of the appellant and no question of law at all was involved in the appeal filed by the respondent against that finding. If no question of law- much less a substantial question of law - was involved in the appeal thus filed by the respondent, the Labour Appellate Tribunal had certainly no jurisdiction to entertain the appeal and reverse the finding recorded by the Industrial Tribunal against Nanilal Mukherjee.

8. We are therefore of the opinion that the Labour Appellate Tribunal, Calcutta had no jurisdiction to entertain the appeal against the award of the Industrial Tribunal in the regard to Nanilal Mukherjee. The appeal will therefore be allowed, the decision of the Labour Appellate Tribunal in

the regard to Nanilal Mukherjee will be set aside and the award of the first Industrial Tribunal Calcutta, on issue No.2 will be restored.

9. The respondent had filed the statement of case but did not appear at the hearing. Having regard to all the circumstances of the case, we order that each party will bear and pay its own costs of this appeal.

Appeal allowed.

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